

BEFORE THE  
ILLINOIS  
COMMERCE COMMISSION

IN THE MATTER OF:

ON ITS OWN MOTION,

VS .

THE PEOPLES GAS LIGHT AND COKE  
COMPANY,

) No. 01-0707

Chicago, Illinois  
April 19, 2005

Met, pursuant to notice, at 10:00.

BEFORE :

CLAUDIA SAINOT, Administrative Law Judge

APPEARANCES :

McGUIREWOODS, by  
MS. THOMAS MULROY  
MR. MARK McGUIRE  
MS. MARY KLYASHEFF  
77 W. Wacker Drive  
SUITE 4400  
Chicago, Illinois  
312.849-8272

for Peoples Gas Light and Coke Company;

1 APPEARANCES CONTINUED:

2 ILLINOIS COMMERCE COMMISSION, by  
3 MR. JAMES WEGING  
4 MR. SEAN R. BRADY  
5 160 N. LaSalle Street  
6 Suite C-800  
7 Chicago, IL 60601  
8 for ICC Staff;

9 CITY OF CHICAGO, by  
10 MR. RONALD D. JOLLY  
11 30 N. LaSalle Street  
12 Suite 900  
13 Chicago, Illinois 60602  
14 312.744.6929  
15 for City of Chicago;

16 THE PEOPLE OF THE STATE OF ILLINOIS, by  
17 MR. MARK KAMINSKI  
18 100 W. Randolph Street  
19 Chicago, Illinois 60601  
20 for the People of the State of Illinois.

21 CITIZENS UTILITY BOARD, by  
22 MS. JULIE SODERNA  
23 208 South LaSalle  
24 Suite 1760  
25 Chicago, Illinois 60604.  
26 Appearing on behalf of CUB;

27 SULLIVAN REPORTING COMPANY, by  
28 Carla L. Camiliere, CSR,  
29 License No. 084-003637  
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I N D E X

<u>Witnesses:</u>	<u>Direct</u>	<u>Cross</u>	<u>Re-</u> <u>direct</u>	<u>Re-</u> <u>cross</u>	<u>By</u> <u>Examiner</u>
William Morrow	789	791			
		804	805		
		813			
		816			
		817			
					823
			824		
ERIC LOUNSBERRY					
	829				837
JEROME D. MIRSWA					
	839				
LYNNE D. DECKER					
	844				
DENNIS ANDERSON					
	854	861			875
			876		
DAVID WEAR					
	877	880			
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E X H I B I T S

<u>Number</u>	<u>For Identification</u>	<u>In Evidence</u>
STAFF		
# 4.0 & 8.0		832
CITY & CUB		
# 1.1 thought 1.45		
And 2.0		852
STAFF		
# 2.0, 6.0 and 11.0		859
PEOPLES GAS		
B,C,F,L,O and		
2-15, 18 & 19		880
AG Wear		
# 1		894
# 2		911
# 3		914
# 4		916
# 5		919
# 6		924
# 7		936

1 JUDGE SAINSOT: By the authority vested in me  
2 by the Illinois Commerce Commission, I now call  
3 Docket 01-0707. It is the Illinois Commerce  
4 Commission on its own motion versus Peoples Gas,  
5 Light & Coke Company.

6 It is a reconciliation of revenues  
7 collected under gas adjustment charges with actual  
8 cost of gas prudently include ^ check.

9 Will the parties identify themselves  
10 for the record?

11 MS. KLYASHEFF: Appearing for the Peoples Gas  
12 Light & Coke Company, Thomas Mulroy, Mark McGuire and  
13 Mary Klyasheff with McGuire, Woods, 77 West Wacker,  
14 Chicago, Illinois 60601.

15 MR. WEGING: James E. Wering and Sean R. Brady,  
16 160 North LaSalle Street, Suite C800, Chicago,  
17 Illinois 60601, appearing on behalf of Commission  
18 Staff witnesses.

19 MR. JOLLY: On behalf of the City of Chicago,  
20 Ronald D. Jolly, Conrad Reddick. Our address is 30  
21 North LaSalle, Suite 900, Chicago, Illinois 60602.

22 MR. KAMINSKI: Mark Kaminski of the Illinois

1 Attorney General's office, 100 West Randolph Street,  
2 Chicago, Illinois 60661, appearing on behalf of the  
3 People of the State of Illinois.

4 MS. SODERNA: Julie Soderna, appearing on  
5 behalf of the Citizens Utility Board, 208 South  
6 LaSalle, Suite 1760, Chicago, Illinois 60604.

7 JUDGE SAINSOT: Mr. Jolly, you may have to  
8 speak up a little bit in the future.

9 MR. JOLLY: Okay.

10 JUDGE SAINSOT: Are you ready to call your next  
11 witness?

12 MS. KLYASHEFF: Yes, the Company calls William  
13 Morrow.

14 JUDGE SAINSOT: Mr. Morrow?

15 (Witness sworn.)

16 WILLIAM MORROW,  
17 called as a witness herein, having been first duly  
18 sworn, was examined and testified as follows:

19 DIRECT EXAMINATION

20 BY

21 MS. KLYASHEFF:

22 Q Mr. Morrow, please state your name and

1 business address for the record.

2 A My name is William E. Morrow, M-o-r-r-o-w.  
3 My address is 130 East Randolph Drive, Chicago,  
4 Illinois 60601.

5 Q You have before you a document that is  
6 entitled Additional Rebuttal Testimony of William E.  
7 Morrow and it has been marked for identification as  
8 Respondent's Exhibit N?

9 A That's correct.

10 Q Does this document contain the testimony  
11 that you wish to give in this proceeding?

12 A Yes, it does.

13 Q Do you have any changes that you wish to  
14 make to this document?

15 A No, I do not.

16 Q If I were to ask you the questions included  
17 in this document, would your answers be the same as  
18 set forth in that document?

19 A Yes, they would.

20 Q Do you adopt this document as your sworn  
21 testimony in this proceeding?

22 A Yes, I do.

1 MS. KLYASHEFF: Subject to cross-examination, I  
2 move for the admission of Respondent's Exhibit N.

3 JUDGE SAINSOT: Any objection?

4 MR. WEGING: None.

5 JUDGE SAINSOT: Okay. Your motion is granted,  
6 Counsel. Respondent's Exhibit N, which is the  
7 additional rebuttal testimony of William Morrow, is  
8 admitted into evidence.

9 Do you have any questions for this  
10 witness?

11 MS. KLYASHEFF: I have no questions and the  
12 witness is available for cross.

13 JUDGE SAINSOT: Cross?

14 MR. WEGING: Yes.

15 CROSS EXAMINATION

16 BY

17 MR. WEGING:

18 Q Good morning, Mr. Morrow.

19 A Good morning.

20 Q My name is James Wearing. I am the -- one  
21 of the attorneys for the Commission Staff witnesses  
22 in this case.



1                   Now, you are the same William Morrow  
2   who signed the GPAAAs for Peoples Gas and North Shore  
3   Gas?

4           A     Yes, I am.

5           Q     Now, in your testimony, this is on Page 3  
6   around Lines 26 to 53, where you describe Enovate.  
7   Now, you indicate that Enovate was controlled by an  
8   Enron subsidiary and a Peoples subsidiary?

9           A     Yes, Peoples Midwest.

10          Q     All right. Now, Peoples Mid -- well, it's  
11   called Peoples MW LLC in your testimony.

12          A     Yes.

13          Q     But I take it Peoples Midwest is a more  
14   common name?

15          A     Yes.

16          Q     Did it have any function other than to  
17   control Enovate?

18          A     Peoples MW, as it's described?

19          Q     Yes.

20          A     No.

21          Q     Did it have any personnel, I guess separate  
22   from other Peoples subsidiaries?

1           A     No, it did not.

2           Q     Now, the Enron subsidiary, Enron MW LLC, is  
3     that different than the entity that's usually  
4     described as Enron Midwest?

5           A     I believe that to be one and the same  
6     entity.

7           Q     Same entity.

8                     Turning to your testimony on Page 4,  
9     approximately Line 62 to 64, you indicate that the  
10    financial transactions for Enovate were conducted  
11    primarily by Enron Midwest?

12          A     That is correct.

13          Q     Was there any other entity that conducted  
14    financial transaction for Enovate other than Enron  
15    Midwest?

16          A     No, the structure of the organization is  
17    that Enovate utilized the facilities, computer  
18    systems, training systems of Enron, its parent  
19    company, and therefore, that's how we functioned and  
20    transacted all our financial trades, through that  
21    entity.

22          Q     But as far as you know, there wasn't any

1 other Enron subsidiary that would act as agent for  
2 Enovate?

3 A Not to my knowledge.

4 Q I believe approximately on Page 6 of your  
5 testimony, Lines 110 to 114, you indicate that the  
6 personnel who ran Enovate or whatever, however you  
7 want to describe that, came from Enron subsidiaries,  
8 including Enron Midwest, and from PERC, which is  
9 Peoples Energy Resources Corp?

10 A That's correct.

11 Q However, those -- that personnel who ran  
12 Enovate remained on the payroll of the Enron  
13 subsidiaries and PERC; am I correct?

14 A I can clearly address that from the Peoples  
15 perspective, yes, the employees that were working on  
16 Enovate activity were employees of Peoples Energy  
17 Resources Corp.

18 I don't really know the exact payroll  
19 that the Enron employees happen to be on. I mean,  
20 I --

21 Q But you do know Enovate had no payroll to  
22 speak of?

1           A     Correct.

2           Q     Now, you indicate in your testimony on  
3     Page 6, I think it's a few lines earlier, Lines 106  
4     to 109, that the offices of Enovate were separate  
5     from the offices of Peoples Energy Corp and its  
6     subsidiaries?

7           A     That's correct. Enron leased separate  
8     office space, set up the office, furnished it, put in  
9     the computer equipment, all the necessary telephone  
10    and systems in order to run. Yes, it was a separate  
11    office and building from Peoples Energy.

12          Q     Wasn't Enovate's offices in the same  
13    building as Peoples Energy Regulatory -- I mean  
14    Peoples Energy Resources Corp?

15          A     Peoples Energy Resources eventually moved  
16    to another floor of that office building, as it was  
17    expanding its employees. We happened to be at the  
18    time when this entity was created in several  
19    different buildings and we were consolidating  
20    operations on one floor. And it did happen to wind  
21    up being in that building, but not on that floor.

22          Q     Okay. About what date did that

1 consolidation take place, if you remember?

2 A I don't recall specifically.

3 Q Would it have been in this reconcilia -- on  
4 this GPA (sic)?

5 A Yes. Yes. Somewhere during the period of  
6 this reconciliation, yes, that took place.

7 Q Thank you for asking my question because I  
8 couldn't get it out.

9 Now, the right of Enron Midwest to act  
10 as agent for Enovate, was that memorialized in any  
11 written document between Peoples and Enron?

12 A Well, you're -- if you're referring to  
13 financial trading or activity in general?

14 Q Well, let's limit it to financial trading  
15 right now.

16 A Again, financial trading was done by  
17 employees -- employees of each company working on  
18 behalf of Enovate. We used Enron Midwest and its  
19 connection via Enron to consummate financial trades.

20 Q But was there an actual agreement that set  
21 that forth between the two controlling parties?

22 A No, other than the operating agreement

1     between the entities and the formation of Enovate, we  
2     agreed that Enron would be providing many of the back  
3     office, middle administrative tasks and functions.

4           Q     But it didn't specifically provide that  
5     Enron Midwest be the agent, did it?

6           A     Not to my knowledge.

7           Q     Beyond the financial trading, was there any  
8     agreement about Enron Midwest acting as agent for  
9     Enovate in any other capacity?

10          A     I'm not sure what you mean. Enovate  
11     transacted business, you know, for itself, did its  
12     own deals. Enron Midwest, which was a subsidiary of  
13     Enron Corp, certainly transacted other activities for  
14     itself.

15          Q     How did -- this is kind of a broader  
16     question. How did Peoples Energy monitor Enovate  
17     when Enron Midwest was acting as Enovate's agent?

18          A     How do we monitor? I don't understand the  
19     question. Monitoring the financial, the deals,  
20     specifically what do you mean?

21          Q     I think I'm looking at more -- I assume  
22     that the deal-by-deal daily dealings, whatever was

1 going on, did get sent to Peoples for review. So I  
2 guess I'm looking more for like an overview as to how  
3 generally Peoples Energy through its subsidiaries or  
4 whatnot kind of kept track of what was going on with  
5 Enovate and specifically with Enron Midwest's  
6 activities for Enovate?

7 A Sure. There was a series of daily reports  
8 that were generated out of Enron's system that  
9 recorded and valued activity during every day,  
10 year-to-date, as well as what might have occurred  
11 that day. And those reports were distributed amongst  
12 the various parties at Peoples, whether it be our  
13 risk area, our credit area or the Peoples employees  
14 working at Enovate itself.

15 Q Was the daily reports the only monitoring  
16 that was done or was something done more on a monthly  
17 or quarterly basis or --

18 A Well, certainly we received all accounting  
19 data that was necessary for our recording of income  
20 on a monthly basis, on a quarterly basis. And all  
21 the support that was required by our accounting  
22 groups was provided on whatever basis they requested.

1                   If they wanted detail on a daily basis  
2   or on a monthly basis, they were certainly provided  
3   that by Enron.

4           Q     Now, during this reconciliation period,  
5   Enron Midwest also traded gas with Peoples Gas,  
6   didn't it, sell it, buy it, that kind of thing?

7           A     That's correct.

8           Q     And during this reconciliation period,  
9   Enron Midwest also had the -- what's been described  
10   as the storage optimization contract with Peoples  
11   Gas?

12          A     That's correct.

13          Q     And during this reconciliation period,  
14   Enron Midwest had at least two revenue sharing  
15   arrangements with PERC, Peoples Energy Resources  
16   Corp?

17          A     I'm not sure when you mean by revenue  
18   sharing agreements?

19          Q     Well, I would like to show the witness, and  
20   I do not intend to have this admitted into the record  
21   as evidence unless I have to, a copy of an answer to  
22   a data request Peoples made to a Staff data request,



1 specifically POL16.15, and it is the B Subsection.

2 I'd like to show that to the witness.

3 It's this question here. I just ask you to take a  
4 look at that.

5 A Sure.

6 Q Have you finished your review of that?

7 A Yes.

8 Q I'd ask you again, during this  
9 reconciliation period, did Enron Midwest have at  
10 least two revenue sharing arrangements with PERC?

11 A The partnership -- most partnerships, how  
12 they're set up initially, share 50/50 of all  
13 revenues. We were looking -- or Enovate was seeking  
14 to enhance hub activity, so yes, there were some  
15 arrangements or targets or discussions that were  
16 never memorialized into any written agreement that  
17 would describe how one would attempt to calculate the  
18 value brought forward to any of these deals by  
19 Enovate itself.

20 Q Actually, you went well-beyond what my  
21 question was.

22 A I'm sorry.

1           Q     That's okay. In fact, there were two  
2 arrangements during this reconciliation period?

3           A     I'm not familiar with these arrangements  
4 directly, so I don't know if there were one or two.  
5 I know that there were discussions around having  
6 these agreements memorialized, and the parties were  
7 never able to come to terms.

8                     And as those discussions were  
9 concluding, unfortunately, flipping over into the  
10 next fiscal year, Enron declared bankruptcy and the  
11 arrangements -- and completion of those arrangements  
12 were worthless at that point.

13          Q     I guess just to ask you, you would be  
14 considered higher management at Peoples Energy or  
15 Peoples Energy Resources Corp?

16          A     Yes.

17          Q     In your longer answer, you said -- you  
18 referenced Enovate, rather than Enron Midwest,  
19 concerning the bankruptcy, or am I wrong?

20          A     Concerning the bankruptcy?

21          Q     Yes.

22          A     Enron declared bankruptcy, yes.

1           MR. WEGING: I have nothing further for this  
2 witness.

3           JUDGE SAINSOT: Mr. Kaminski.

4           MR. KAMINSKI: I don't have any cross. I would  
5 just like clarification of this document,  
6 specifically the response to data request POL16.15.  
7 Is there a sponsoring witness for this response? I  
8 don't see it on the document.

9           THE WITNESS: I'm not sure.

10          MR. KAMINSKI: Can I ask the attorneys, do you  
11 know if there's a responsive witness for this  
12 document? Do you know who produced this document?

13          MR. MULROY: This came from Jim --

14          MR. KAMINSKI: No, I understand this is a  
15 response from Peoples Gas Light & Coke to a data  
16 request. I just want to know who on the Peoples side  
17 actually produced the response to this document?

18          MR. MULROY: Well, why don't we find out and  
19 let you know.

20                       Unless you know.

21          MS. KLYASHEFF: I would note that the response  
22 itself indicates that Peoples Energy Resources and

1 Peoples Energy Corporation contributed to the  
2 response, even though it was provided by Peoples Gas.  
3 I don't know what individual, I just note that this  
4 was one of the several responses in the case where  
5 Peoples Gas asked other companies to assist in their  
6 response.

7 MR. WEGING: I have to say that it's my  
8 understanding that Mr. Morrow certified this  
9 question. I could be wrong on that, however.

10 JUDGE SAINSOT: Mr. Wearing you need to repeat  
11 the question, I didn't get all of it.

12 MR. WEGING: It's my understanding that this  
13 answer to this data request response was sponsored by  
14 Mr. Morrow. Now, it may be that I have this wrong,  
15 and I will -- Peoples can tell us.

16 JUDGE SAINSOT: Are there any further questions  
17 for Mr. Morrow?

18 MR. JOLLY: The City had reserved some time,  
19 but we're going to waive our cross-examination.

20 JUDGE SAINSOT: You're going to waive your  
21 cross?

22 MR. JOLLY: Yes.

1 JUDGE SAINSOT: Nothing from CUB?

2 MS. SODERNA: No.

3 MR. MULROY: I have some redirect, if that's  
4 okay.

5 JUDGE SAINSOT: I have two questions, so why  
6 don't you wait.

7 MR. MULROY: That's even better.

8 CROSS-EXAMINATION

9 BY

10 JUDGE SAINSOT:

11 Q Mr. Morrow, you talked about these daily  
12 reports?

13 A Yes.

14 Q From Enovate to Peoples Energy Corporation?

15 A Well, they were produced -- there were  
16 daily reports, called daily position reports. I was  
17 tracking market-to-market information from trades and  
18 other activity. It was prepared out of Enron's  
19 accounting systems and it was published and  
20 circulated daily, both for people managing the  
21 partnership directly, as well as those areas in our  
22 company, namely our risk area, our credit areas,

1     accounting areas, that saw those daily to make sure  
2     that we were operating within our preset limits,  
3     trading limits.

4             Q     Did you receive copies of those reports?

5             A     Yes, I received the summary report on a  
6     daily basis.

7             Q     Now, I note that in your pre-filed  
8     testimony, you talked about the fact that some of  
9     Enovate's profits were derived from speculative  
10    trading, right?

11            A     That's correct.

12            Q     You didn't say how much of those profits  
13    were derived from speculative trading, did you?

14            A     No, I did not put an exact amount in the  
15    testimony.

16            Q     You didn't put any amount, did you?

17            A     No, I didn't.

18            JUDGE SAINSOT:   I have no further questions.

19                               REDIRECT EXAMINATION

20                               BY

21                               MR. MULROY:

22            Q     Can you tell us now what the split was

1     between speculative trading and the other business of  
2     Enovate?

3             A     I can't define that precisely. We have not  
4     received all the records necessary to make that  
5     precise calculation. Because Enron managed the  
6     partnership, they kept the books, and we were given  
7     certainly some recent financial information on a  
8     basis, but the data we have is not fine cut enough to  
9     be able to precisely calculate the amount.

10                    I mean, we understand approximately  
11     what we think it is, but not anything definitive at  
12     this point.

13             Q     Why didn't the Company need that kind of  
14     information?

15             A     The Company understood, as long as we were  
16     monitoring all of the compliance with our risk  
17     policies and the risk limits that were established  
18     and as long as we were in there and we were also  
19     receiving our accounting data, you know, we didn't  
20     feel it was necessary or required of us to have a  
21     sub-split of every business activity.

22             Q     You did not need that information to

1       prepare and file the tax return for Enovate?

2               A       No, not to my knowledge.

3               Q       What was Enovate's business?

4               A       Enovate was a wholesale marketer that  
5       operated within the Midwest.

6               Q       What's wholesale marketer mean?

7               A       Wholesale marketing is someone who -- a  
8       company that would buy and sell gas, transportation,  
9       storage, add value in the process and resell those  
10      products and services to utility companies, other  
11      marketers, retail energy marketers and the like.

12              Q       Was Enron Midwest the partner primarily  
13      responsible for the speculative trading?

14              A       Yes.

15              Q       Why did you make that arrangement?

16              A       We made that arrangement because that was a  
17      skill set that Enron brought to the company. While  
18      our company had personnel that understood, we were  
19      certainly not extensive participants in the  
20      marketplace in trading, so they brought that skill  
21      set. They had familiarity with their systems, which  
22      were the primary systems we used in trading.



1           Q     You testified in response to one of  
2     Mr. Weging's questions about the support you received  
3     from your company's accounting group. Was there an  
4     audit performed by Enovate?

5           A     Yes, there was.

6           Q     Who performed that?

7           A     We had an internal group, as well as they  
8     hired an outside consultant, who specialized in  
9     derivatives in energy trading, to assist them in  
10    their audit of Enovate.

11          Q     You mean the auditing team hired an outside  
12    expert?

13          A     Yes.

14          Q     What's derivative trading?

15          A     Derivative trading is -- again, we were  
16    trading on speculative basis, as well as trading in  
17    support of any of our deals. This person had  
18    familiarity with the market, such as just standard  
19    hedging but also options and other activity that you  
20    could trade around a natural gas commodity.

21          Q     Did this outside derivative trading expert  
22    review the procedures that were in place in

1 connection with this financial trading?

2 A Yes.

3 Q And that was done in the audit?

4 A Yes.

5 Q What was the purpose of the audit, do you  
6 recall?

7 A The audit was requested by our corporate  
8 audit committee, who asked that because this was a  
9 brand new business and it was going into areas of  
10 business that we weren't as familiar with, that the  
11 right procedures were in place, the right processes  
12 were in place to monitor what our company had agreed  
13 to put at risk in the trade.

14 Q And was the outside company itself given  
15 access to the books and records of Enovate?

16 A Yes.

17 Q Mr. WEGING also asked you a question about  
18 the storage optimization contract. Was that a  
19 contact with Enron?

20 A I think he might have phrased it Enron  
21 Midwest. I'm not precisely sure. That would be  
22 better answered maybe by Mr. Wear. But it was very

1 well -- was likely Enron.

2 Q And do you know what the purpose of the  
3 storage optimization contract was?

4 A The storage optimization contract was to  
5 help the company manage its NSS Storage asset.

6 Q What's NSS Storage mean?

7 A NSS Storage service is a nominated storage  
8 service that's sold by Natural Gas Pipeline Company  
9 of America. It was a contract that the utility had  
10 purchased and paid for. It provided seasonal storage  
11 as well as certain no notice features.

12 Q Did Enron manage any Peoples storage gas  
13 which was planned for its rate payers?

14 A No, it did not.

15 Q Did Enron -- or Enovate participate in any  
16 hub revenue?

17 A Yes.

18 Q How did that happen?

19 A Enovate did purchase hub services from  
20 Peoples Gas, as well as hub services from Nicor and I  
21 believe Nisource (phonetic) as well.

22 Q So they were customers, they didn't

1     participate in the revenue?

2             A     No, they were customers, right.

3             Q     And lastly, was Enovate disclosed in any of  
4     your reports that the company publishes?

5             A     Yes, certainly Enovate was -- we had issued  
6     press releases, they were certainly detailed in our  
7     10-Qs and 10-Ks, as required by SEC. We talked about  
8     Enovate in our annual reports and our analyst  
9     presentations.

10            Q     Was the fact that Enovate did financial  
11     trading mentioned in these reports?

12            A     Yes, it was.

13            Q     Now, Mr. WEGING also asked you about the  
14     fact that Enovate was controlled by affiliates. Was  
15     Enovate owned 50 percent by Enron Midwest?

16            JUDGE SAINSOT: I'm sorry to interrupt you.  
17     Whoever has that cell phone needs to turn it off  
18     right now.

19                         Anyone else with a cell phone?

20            MR. MULROY: I was just enjoying the tune.

21            JUDGE SAINSOT: I'm sorry, Mr. Mulroy.

22            MR. MULROY: That's okay. My mind is like a

1 steel trap, I never forget the questions anyway,  
2 except for this one.

3 BY MR. MULROY:

4 Q Mr. WEGING -- now, I've got it --  
5 Mr. WEGING asked you about the control of Enovate.  
6 Was Enovate owned 50 percent by Enron Midwest and 50  
7 percent by Peoples Midwest?

8 A That's correct.

9 Q And was there a managing partner of  
10 Enovate?

11 A Yes.

12 Q What does managing partner mean?

13 A Well, managing partner, and in this case it  
14 was the Enron subsidiary that was the managing  
15 partner, they were responsible for managing the  
16 day-to-day business of Enovate.

17 Q Is that in writing?

18 A Yes.

19 Q And why did Peoples Midwest agree to have  
20 Enron Midwest be the managing partner?

21 A Because at the time, they brought all the  
22 skills, the resources, the experience that we felt

1       necessary to get this start up company off the ground  
2       and operating both efficiently and profitably.

3           Q     Had Peoples been involved in speculative  
4       trading before this?

5           A     No.

6           Q     So you relied on Enron Midwest?

7           A     Yes.

8           Q     And its expertise?

9           A     Yes.

10          Q     When Enron went bankrupt, did Enron Midwest  
11       also go bankrupt?

12          A     I'm not certain about Enron Midwest, but  
13       Enovate did not. I'm sure Enron Midwest also did  
14       not.

15          MR. MULROY: Thank you, your Honor.

16          JUDGE SAINSOT: Mr. Weging?

17          MR. WEGING: Just a couple.

18                       CROSS-EXAMINATION

19                       BY

20                       MR. WEGING:

21          Q     Did you ever visit the Enron trading floor  
22       when it was active?

1           A     Yes.

2           Q     And you've indicated --

3           A     Meaning -- well, let me back up.

4           Q     Sure.

5           A     Are you referring to Enron's trading floor

6     in their main Houston headquarters or the Enovate

7     office itself?

8           Q     Well, let's take it in order.   The Houston

9     office, were you on the trading floor?

10          A     Yes.

11          Q     And how about the local office in Chicago?

12          A     Yes.

13          Q     You've indicated that something -- the

14     early part of your redirect concerned Enron and

15     records in trying to enumerize something.   Now, it is

16     true, though, that Peoples, and I don't know which

17     subsidiary, whether it was the holding company or a

18     subsidiary, bought out Enovate, the other half of

19     Enovate in the following year or the year of the

20     bankruptcy?

21          A     That's correct.

22          Q     Now, did Enron retain those records after

1 the purchase?

2 A We sent a team to Houston following the  
3 purchase out of bankruptcy and sent a team down to  
4 their headquarters to retrieve anything that we could  
5 that was necessary to conclude the business for that  
6 year.

7 We weren't -- we were provided several  
8 boxes of information that was, in our view, adequate  
9 to take whatever deals we had left in Enovate's name  
10 to their conclusion.

11 Q So at that time, you didn't think it would  
12 be necessary to provide numbers for those  
13 transactions, you were just looking to wind down the  
14 business of Enovate?

15 A Wind down the business and, of course,  
16 after that, our intention was to completely wind down  
17 the business. We did not have a partner, so it was  
18 just to conclude whatever business we had ongoing at  
19 that particular point in time.

20 MR. WEGING: Thank you.

21 MR. MULROY: So the business was in  
22 operation --



1 MR. JOLLY: Excuse me.

2 MR. MULROY: I'm sorry.

3 MR. KAMINSKI: If I could, just a couple  
4 questions.

5 CROSS-EXAMINATION

6 BY

7 MR. KAMINSKI:

8 Q One -- by the way, Mark KAMINSKI with the  
9 Illinois Attorney General's Office.

10 You are the signatory to the Enovate  
11 LLC agreement, correct?

12 A Yes.

13 Q And you were on the board of managers of  
14 Enovate?

15 A Yes, correct.

16 Q One second.

17 You mentioned before that, I think in  
18 bankruptcy, that you purchased the other half of  
19 Enovate, the other 50 percent of Enovate and by  
20 Peoples Midwest too, correct?

21 A Yes.

22 Q How much did you pay for that?

1           A     I only recall an approximate amount. I  
2     think it was around \$2 million, but I would have to  
3     verify that and check that.

4           MR. KAMINSKI: Thank you.

5           JUDGE SAINSOT: Mr. Jolly, I'll let you ask the  
6     question, but in the future let's not have any tag  
7     team. Okay?

8           MR. JOLLY: Okay. Well, my questions flow from  
9     the redirect of Mr. Morrow.

10                           CROSS-EXAMINATION

11                           BY

12                           MR. JOLLY:

13           Q     Mr. Morrow, I'm Ron Jolly with the City of  
14     Chicago.

15                           You indicated that Enovate did  
16     speculative trading; is that right?

17           A     Yes.

18           Q     And when you say they did speculative  
19     trading, was that trading natural gas?

20           A     Yes.

21           Q     Whose gas was Enovate trading?

22           A     Pardon?

1 Q Whose gas was Enovate trading?

2 A Whose gas?

3 Q Yes.

4 A Well, speculative trading is really taking  
5 financial positions. It's not really -- I mean,  
6 there's physical trading and there's financial  
7 trading. Financial trading is just taking positions  
8 out in NIMAX or in the marketplace and trading around  
9 those positions. Physical trading is different.

10 In the case of financial, there really  
11 is no gas at that point, they're commitments.

12 Q What dollars were used to purchase  
13 Enovate's position in those financial -- on those  
14 financial trades?

15 A What dollars? Well, both parent companies  
16 put forward parental guarantees in order to allow  
17 Enovate to transact. Because Enovate did most of its  
18 financial transactions through Enron, Enron wasn't  
19 requiring any cash at that point to be put up.

20 But if we did financial transactions  
21 directly on NIMAX or with other counterparties,  
22 Enovate would have put up the collateral to support

1     that, which would have been supported 50/50 by the  
2     partners.

3           Q     Is it true that Enovate -- the initial paid  
4     in capital from the two joint venture partners was  
5     \$100,000 each?

6           A     I've seen that that is an original cash  
7     that someone put in; however, Enron spent upwards of  
8     a couple million dollars setting up the office. Both  
9     companies paid for their employees, everything  
10    necessary for payroll and benefits, as well as put  
11    forward all the dollars necessary to pay everything  
12    from our electric bill, phone bills, buying computer  
13    hardware and the like.

14                   We also put in, again, parental  
15    guarantees and would have made cash collateral  
16    available, they were authorized, that in the event  
17    the financial trading partner required that.

18           Q     You also indicated during your redirect  
19    that -- you referred to, I believe, a couple of  
20    physical gas transactions that Enovate had; is that  
21    correct?

22           A     I don't think I did.

1           Q     I thought you referred to a physical gas  
2     transaction with NIGas and with NIPSCO?

3           A     Oh, I indicated that Enovate was a customer  
4     of the hubs of Peoples Gas, Nicor Gas and Northern --  
5     Nisource or NIPSCO

6           Q     And were you asked about the arrangements  
7     that Peoples Gas had with NIGas and with NIPSCO as  
8     part of a data request?

9           A     You said Peoples Gas in relation to?

10          Q     I'm sorry. Were you asked in a data  
11     request about Enovate's transactions with NIGas,  
12     other than NIPSCO hub, in a data request?

13          A     I don't recall if I was asked. I mean, the  
14     Company might have been asked as part of data request  
15     to Peoples. I'm certainly not familiar with every  
16     data request that was requested.

17          JUDGE SAINSOT: Mr. Jolly, you need to speak up  
18     a little bit.

19          MR. JOLLY: Okay.

20          BY MR. JOLLY:

21          Q     If I can show the witness Peoples Gas'  
22     response to CUB data request 20.02. And I don't have

1     this marked as an exhibit.  It's already attached to  
2     Ms. Decker's rebuttal testimony as City CUB  
3     Exhibit 2.8.

4             A     Okay.  Yes.

5             Q     Does that response refer to the  
6     transactions you were referring to in your redirect  
7     with NIGas and with Nicor?

8             A     It appears that that would be responsive.  
9     I'm not sure in its entirety if it's responsive, but  
10    yes.  I did not prepare that response myself.

11            Q     Well, according to the response, PERC,  
12    which was not the -- PERC was -- was PERC the parent  
13    company of Peoples Midwest?

14            A     Yes.

15            Q     And according to this response, PERC states  
16    that PERC believes that Enovate received 305,000  
17    MMbtu of gas from Northern Indiana Public Service  
18    Company during May and June of 2001.  And it believes  
19    such service was pursuant to NIPSCO's rate schedule  
20    GLS or GPS.  PERC believes that Enovate purchased a  
21    transportation service from Northern Illinois Gas  
22    Company's hub, but it does not know the specifics of

1 the deal. Is that right? Is that what the response  
2 says?

3 A That's what the response says. And I would  
4 assume that since that was a PGL question that came  
5 to PGL, they asked PERC, and PERC would have prepared  
6 that response, and that's their response. So that is  
7 true.

8 Q Okay. One last thing. During your  
9 redirect, Mr. Mulroy asked you some questions  
10 regarding the NSS optimization contract?

11 A Yes.

12 Q And did you again state what the NSS  
13 optimization contract was?

14 A I can. I will give it a shot.

15 Again, Mr. Wear, I think, has  
16 extensive testimony covering that response. But NSS  
17 was a service that the utility purchased from Natural  
18 Gas Pipeline, it was called nominated storage  
19 service. And it had both seasonal storage  
20 capability, as well as no notice, which was the key  
21 feature that the utility company was interested in  
22 obtaining.

1                   There was an optimization agreement  
2   with other parties in the past and with Enron during  
3   the reconciliation period to optimize that contract.

4           Q     Do you know how many contracts that Peoples  
5   Gas had with Natural Gas Pipeline?

6           A     How many contracts?

7           Q     For NSS services?

8           A     Oh, for NSS.

9           Q     Yes.

10          A     I believe there might have been two.   But  
11   again, I'm not the expert on reciting every service  
12   that we might have had.

13          Q     Okay.   So if I have questions about that, I  
14   should ask Mr. Wear?

15          A     Yes.

16          MR. JOLLY:   That's all I have.   Thank you.

17          JUDGE SAINSOT:   I just have one question.

18                   CROSS-EXAMINATION

19                   BY

20                   JUDGE SAINSOT:

21          Q     Mr. Morrow, you talked about various  
22   reports that Peoples Energy or PERC put out



1 disclosing the existence of Enovate?

2 A Yes.

3 Q Just for the record, those wouldn't be  
4 reports to the Illinois Commerce Commission, would  
5 they?

6 A No.

7 JUDGE SAINSOT: Okay. Thank you.

8 REDIRECT EXAMINATION

9 BY

10 MR. MULROY:

11 Q Just a follow-up on the Judge's question.  
12 Those reports that you referred to were the annual  
13 reports published to the shareholders for the  
14 two years that Enovate was in existence, as well as  
15 the reports you filed with the Securities & Exchange  
16 Commission; is that correct?

17 A Yes.

18 Q Just to clarify that.

19 You talked about parental guarantees.  
20 Can you tell us what those are?

21 A Parental guarantees are another form of  
22 financial backing that is provided or that generally

1 business partners ask for when one entity doesn't  
2 have credit on its own.

3 Enovate did not, as a newly  
4 established company, have credit on its own in order  
5 to provide credit or assurance to another party that  
6 it's transacting with that it could complete the  
7 transaction or at least be capable of paying a  
8 financial penalty in the event they failed on a  
9 delivery. The -- a young startup company has the  
10 option of going to a bank and purchasing a letter of  
11 credit, which costs money, or in this case, the  
12 parent companies would put up a statement to the  
13 counterparty, indicating that if this entity,  
14 Enovate, failed in its delivery or financial  
15 penalties or something associated with making or  
16 keeping whole on the deal, that each parent would  
17 stand up to pay that obligation.

18 Q And what were the names of the parents that  
19 you're talking about?

20 A This would be Peoples Energy and Enron.

21 Q Are you familiar with the term margin  
22 account?

1           A     Yes, somewhat.

2           Q     Was there a margin account involved with  
3   Enovate?

4           A     There could have been.  I'm not aware of  
5   what that amount would be.

6           Q     What is a margin account?

7           A     Well, margin account, again, as I  
8   mentioned, that we did much of our financial trading  
9   via Enron but if we -- again, if we're an un -- or  
10   very limited capitalized company and trying to do  
11   business on a commodity exchange, they, again, would  
12   like financial support on the position you've taken  
13   in the event the market changes.

14                   So at times, these exchanges asked for  
15   collateral to be posted in the event that, you know,  
16   your entity walks away from the deal or happens to go  
17   bankrupt itself.

18           MR. MULROY:  Thank you, Judge.

19           JUDGE SAINSOT:  Anything?

20           MR. WEGING:  Nothing from Staff.

21           JUDGE SAINSOT:  Okay.  You're excused,  
22   Mr. Morrow.

1 THE WITNESS: Thank you.

2 JUDGE SAINSOT: Who's the next witness.

3 MS. KLYASHEFF: Witness Wear is available.

4 JUDGE SAINSOT: He's going to take how long?

5 MR. BRADY: A long time.

6 JUDGE SAINSOT: Okay. Let's take two shorter  
7 witnesses before lunch.

8 You may proceed. Mr. Brady.

9 MR. BRADY: Thank you, your Honor.

10 Your Honor, at this time we are moving  
11 forward with Staff's case in chief. So the first  
12 course of business I would like to attend to is that  
13 Staff and Peoples Gas have -- would like to -- have  
14 agreed to stipulate exhibits into the record for the  
15 01-0707 case.

16 These are exhibits that had been  
17 produced by Peoples Gas and relied upon by Staff in  
18 their testimony of this case.

19 We have an unredacted version and a  
20 redacted version of these exhibits. They both come  
21 with a table of contents. The unredacted version has  
22 265 pages of documents, and the documents are

1 identified in the table of contents, as well as the  
2 page numbers for each document.

3 The same page numbers are used for the  
4 redacted documents as well.

5 JUDGE SAINSOT: So you're seeking admission of  
6 this document, this group exhibit, or what do you  
7 call it?

8 MR. BRADY: Yes. So at this time, we are  
9 seeking -- we are moving for the admission of Staff  
10 Peoples Gas Group Exhibit No. 1, both the unredacted  
11 and redacted versions.

12 JUDGE SAINSOT: Any objection from Peoples?

13 MS. KLYASHEFF: No.

14 JUDGE SAINSOT: Okay. Mr. Brady, your motion  
15 is granted and the Staff and Peoples Gas Light & Coke  
16 Group Exhibit No. 1 is admitted into evidence.

17 MR. BRADY: Thank you, your Honor.

18 JUDGE SAINSOT: You might want to tender a copy  
19 of that to me.

20 MR. BRADY: Yes. Would you like that now?

21 JUDGE SAINSOT: Yes, it might be easier so we  
22 don't forget.

1           MR. BRADY:   (Complying.)

2           JUDGE SAINSOT:   Thank you.

3                               (Whereupon, Staff Exhibit No. 1

4                               was admitted into evidence.)

5           JUDGE SAINSOT:   I understand that we're calling

6   a Staff witness out of order; is that correct?

7           MR. BRADY:   Yes, your Honor.   We are calling a

8   Staff witness.   We're calling Mr. Eric Lounsberry.

9                               (Witness sworn.)

10                       ERIC LOUNSBERRY,

11   called as a witness herein, having been first duly

12   sworn, was examined and testified as follows:

13                       DIRECT EXAMINATION

14                       BY

15                       MR. BRADY:

16           Q    Mr. Lounsberry, will you please introduce

17   yourself and spell your last name for the record

18   please?

19           A    My name is Eric Lounsberry,

20   L-o-u-n-s-b-e-r-r-y.

21           Q    Mr. Lounsberry, did you prepare testimony

22   for this proceeding?

1           A     Yes.

2           Q     Before you, do you have ICC Staff

3     Exhibit 4.0?

4           A     Yes.

5           Q     And this is identified as your direct

6     testimony?

7           A     Yes.

8           Q     And this is comprised of six pages of

9     questions and answers?

10          A     Yes.

11          Q     Was this prepared by you or under your

12     direction?

13          A     Yes, it was.

14          Q     If I were to ask you these questions today,

15     would your answers still be the same?

16          A     Yes.

17          Q     Mr. Lounsberry, you also prepared a second

18     document in this proceeding, did you not?

19          A     Yes.

20          Q     And it's identified as ICC Staff

21     Exhibit 8.0?

22          A     Yes.

1           Q     And it is labeled Additional Direct and  
2     Rebuttal Testimony?

3           A     Yes.

4           Q     And this is 15 pages of question and  
5     answer?

6           A     Yes.

7           Q     Was this prepared by you or under your  
8     direction?

9           A     Yes, it was.

10          Q     If I were to ask you the questions in this  
11     document, would your answers be the same?

12          A     Yes.

13          Q     Do you have any corrections to either of  
14     these documents?

15          A     No.

16          MR. BRADY:   Your Honor, at this time, we would  
17     like to move ICC Staff Exhibits 4.0 and 8.0 into the  
18     record and tender the witness for cross-examination.

19          JUDGE SAINSOT:   Any objection?

20          MS. KLYASHEFF:   No.

21          JUDGE SAINSOT:   That being the case, the motion  
22     is granted, Mr. Brady.   Staff Exhibit 4.0 and Staff



1 Exhibit 8.0 are admitted into evidence.

2 MR. BRADY: May I clarify, as they were  
3 pre-filed on e-docket.

4 JUDGE SAINSOT: As they were pre-filed on  
5 e-docket?

6 MR. BRADY: Yes.

7 JUDGE SAINSOT: You're going to give me a hard  
8 copy?

9 MR. BRADY: I can give you a hard copy, yes.

10 (Staff Exhibits 4.0 and 8.0 are  
11 admitted into evidence.)

12 JUDGE SAINSOT: Do you have any questions of  
13 your witness before you turn him over for  
14 cross-examination?

15 MR. BRADY: I do not.

16 MS. KLYASHEFF: I have some questions.

17 CROSS-EXAMINATION

18 BY

19 MS. KLYASHEFF:

20 Q Good morning, Mr. Lounsberry. I'm Mary  
21 Klyasheff and I represent Peoples Gas.

22 In your testimony in part, you address

1       what's been called the GPAA in this proceeding?

2               A       Yes.

3               Q       And even though everyone is throwing that  
4       term around, just for clarity, by GPAA, I'm referring  
5       to a gas purchase and agency agreement between  
6       Peoples Gas and Enron North America Corporation that  
7       was signed in September of 1999.

8                       Is that the way you're using the term  
9       GPAA?

10              A       Yes.

11              Q       And am I correct that the GPAA was in  
12       effect during the 2000 reconciliation period?

13              A       Yes.

14              Q       On Page 2 of your additional direct and  
15       rebuttal testimony, you stated that Staff had  
16       received a copy of the GPAA from the Company after  
17       sending a data request to get a copy?

18              A       That's correct.

19              Q       And was that in October of 1999?

20              A       The copy that was provided to Staff had a  
21       cover letter from the Company that was dated October  
22       28, 1999. I don't know if it was received by Staff

1 in October or November of '99.

2 Q Okay. Thank you.

3 Was that data request part of a  
4 docketed proceeding?

5 A No.

6 Q Does Staff send data requests to utilities  
7 outside of docketed proceedings?

8 A Yes.

9 Q Did Staff submit any other data request to  
10 Peoples Gas related to the GPAA prior to the  
11 commencement of the 2000 reconciliation case?

12 A There were no written data requests made to  
13 the Company after --

14 JUDGE SAINSOT: Mr. Lounsberry, you need to  
15 speak up.

16 THE WITNESS: Okay.

17 There were no written data requests  
18 sent after the October information.

19 BY MS. KLYASHEFF

20 Q In the preparation of your direct testimony  
21 for this case, did you review Staff's testimony from  
22 the 2000 reconciliation case?

1           A     I have reviewed that in the past.

2           Q     Do you know whether part of Staff's review  
3 during that case included looking at the GPAA?

4           A     Yes.

5           Q     Did Staff request any cost disallowances  
6 during the 2000 case?

7           A     Not that I'm aware of.

8           Q     Do you recall if Staff requested any  
9 additional time to file its testimony during the 2000  
10 case?

11          A     No.

12          JUDGE SAINSOT: Mr. Lounsberry, I'm unclear as  
13 to whether that means no, you don't recall or no --

14          THE WITNESS: Staff did not request any  
15 additional time. Sorry.

16 BY MS. KLYASHEFF

17          Q     On Pages 5 and 6 of your direct testimony,  
18 you discussed what we'll refer to as non-tariff  
19 services?

20          A     Yes.

21          Q     In the preparation of your direct  
22 testimony, did you determine whether the Illinois

1 Commerce Commission was a party to any Peoples Gas  
2 proceeding at the Federal Energy Regulatory  
3 Commission related to non-tariff services?

4 A No, I did not.

5 Q I believe in your additional direct and  
6 rebuttal on Page 9, you testified that in 1997, you  
7 assumed your current responsibility as supervisor of  
8 the gas section of the engineering department; is  
9 that correct?

10 A That's correct.

11 Q And are part of that section's  
12 responsibilities annual gas cost previous review for  
13 utilities?

14 A Yes.

15 Q For utilities offering non-tariff services,  
16 would that section be responsible for reviewing that  
17 in the context of previous review?

18 A Yes.

19 MS. KLYASHEFF: I have no further questions.

20

21

22

1 JUDGE SAINSOT: I have a few.

2 CROSS-EXAMINATION

3 BY

4 JUDGE SAINSOT:

5 Q For the record, Mr. Lounsberry, did you  
6 participate in the previous reconciliation  
7 proceeding?

8 A I was the supervisor of the Assurance  
9 Engineering witnesses assigned to those cases.

10 Q So you didn't prepare testimony but you  
11 worked in it somehow?

12 A I would review any testimony that was  
13 filed.

14 Q Okay. Do you remember who the  
15 administrative law judges were in that case?

16 A Not without going back to e-docket, I  
17 couldn't tell you off the top of my head.

18 Q In this proceeding, Staff has asked for and  
19 received extensions to file testimony for discovery  
20 matters; is that correct?

21 A That's my understanding, yes.

22 Q Give me one moment.

1                   Do you remember what type of discovery  
2   request was used in the previous reconciliation? Was  
3   it what Staff calls informal or what Staff would call  
4   formal?

5           A     In the 2000 case?

6           Q     Right.

7           A     The discovery that the assurance Staff  
8   would have conducted would have involved a rather, a  
9   term. Generic data request that was sent to all  
10   utilities, which is approximately 50 questions, maybe  
11   a little more or a little less depending on the year.

12          Q     But there's no requirement that the  
13   response be verified; is that correct?

14          A     That's correct.

15          Q     And there's no real requirement that the  
16   utilities say who's answering the question; is that  
17   correct?

18          A     I believe that request is part of the  
19   generic language of the data request in the  
20   directions. That's my recollection anyhow.

21          Q     So the Staff asked for that information?

22          A     I believe it did.

1 Q Does Staff always receive that information?

2 A Not always.

3 JUDGE SAINSOT: I have no further questions.

4 MR. BRADY: We have no redirect.

5 JUDGE SAINSOT: Okay. You're excused. Thank

6 you, Mr. Lounsberry.

7 THE WITNESS: Thank you.

8 JUDGE SAINSOT: Ms. Soderna.

9 MS. SODERNA: CUB calls Mr. Jerome Mirswa to

10 the stand.

11 JUDGE SAINSOT: For the record, we're calling

12 Mr. Mirswa out of order.

13 (Witness sworn.)

14 JEROME D. MIRSWA,

15 called as a witness herein, having been first duly

16 sworn, was examined and testified as follows:

17 DIRECT EXAMINATION

18 BY

19 MS. SODERNA:

20 Q Please state your name and business address

21 for the record please?

22 A My name is Jerome D. Mirswa. I work for



1 Exador Associates, and my business address is 5565  
2 Stark Place, Suite 310 in Columbia, Maryland, 21044.

3 Q Did you prepare written testimony for this  
4 proceeding?

5 A I did.

6 Q Do you have before you what has been marked  
7 as CUB Exhibit 2 for identification?

8 A Yes, I do.

9 Q And this document is entitled Direct  
10 Testimony of Jerome D. Mirswa?

11 A That's correct.

12 Q Does this document consist of nine pages of  
13 questions and answers?

14 A Yes, it does.

15 Q And attached to this testimony are five  
16 schedules labeled JDM-1 through 5; is that correct.

17 A That is correct.

18 Q And did you prepare these documents for  
19 this proceeding?

20 A I did.

21 Q Is it your understanding that these  
22 documents were filed by CUB on e-docket on August 7,

1       2003?

2           A     That's my understanding.

3           Q     And do you have any changes or corrections  
4     to your direct testimony or schedules?

5           A     Not that I'm aware of.

6           Q     Just to clarify, there were corrected  
7     versions of JDM-4 and JDM-5, both schedules filed on  
8     December 16th; is that right?

9           A     That is correct.

10          Q     If I asked you the question set forth in  
11     your direct testimony today, would your answers be  
12     the same?

13          A     They would be.

14          Q     And do you also have before you what has  
15     been marked as CUB Exhibit 4 for identification?

16          A     Yes, I do.

17          Q     And this document is entitled the Rebuttal  
18     Testimony of Jerome D. Mirswa; is that correct?

19          A     That is correct.

20          Q     And this document consists of 21 pages of  
21     questions and answers?

22          A     Yes, it does.

1           Q     And attached to your rebuttal testimony are  
2     five schedules labeled JDM-6 through 10; is that  
3     correct.

4           A     That is also correct.

5           Q     And also Attachment 1, which consists of  
6     the Company's response to Staff data request  
7     POL7.016; is that right?

8           A     That is right.

9           Q     Did you prepare these documents for this  
10    proceeding, other than Attachment 1?

11          A     Yes, I did.

12          Q     Is it your understanding that these  
13    documents were filed by CUB on e-docket on February  
14    18, 2005?

15          A     Yes, that is my understanding.

16          Q     Do you have any changes or corrections to  
17    your rebuttal testimony?

18          A     Not that I'm aware of.

19          Q     If I were to ask you the questions set  
20    forth in the rebuttal testimony today, would your  
21    answers be the same?

22          A     They would be.

1 MS. SODERNA: Thank you.

2 I would like to now move for the  
3 admission of CUB Exhibits 2 and 4 and JDM Schedules 1  
4 through 10 and Attachment 1 to Jerome Mirswa's  
5 rebuttal testimony, subject to cross-examination.

6 JUDGE SAINSOT: For the record, those are  
7 attached to Mr. Mirswa's -- the copies that you  
8 provided?

9 MS. SODERNA: Yes. The corrected Schedules 4  
10 and 5 are the versions that you have.

11 JUDGE SAINSOT: All right.

12 So CUB 2.0 and CUB Exhibit 4.0 include  
13 all of those?

14 MS. SODERNA: That's right.

15 JUDGE SAINSOT: Any objection?

16 MS. KLYASHEFF: No.

17 JUDGE SAINSOT: Okay. That being the case,  
18 your motion is granted and CUB Exhibit 2.0 and 4.0,  
19 which are the direct and rebuttal testimony of Jerome  
20 D. Mirswa are entered into evidence.

21 MS. SODERNA: Thank you. I tender the witness  
22 for cross-examination.

1 JUDGE SAINSOT: Any questions?

2 MS. KLYASHEFF: The Company has no questions.

3 JUDGE SAINSOT: Nothing.

4 Okay. I think you're excused,

5 Mr. Mirswa.

6 THE WITNESS: Thank you.

7 JUDGE SAINSOT: Let's take a 10-minute break.

8 (Whereupon, a recess was

9 taken.)

10 JUDGE SAINSOT: Okay. For the record, we're

11 calling Ms. Decker, who is a CUB witness, out of

12 order.

13 (Witness sworn.)

14 LYNNE D. DECKER,

15 called as a witness herein, having been first duly

16 sworn, was examined and testified as follows:

17 DIRECT EXAMINATION

18 BY

19 MR. REDDICK:

20 Q Would you state your name and spell your

21 last name for the record please?

22 A Lynne D. Decker, spelled D-e-c-k-e-r.

1           Q     And could you give me your current employer  
2     and business address please?

3           A     I'm currently employed with the American  
4     Cancer Society, and that address is 8400 Silver  
5     Crossing, Oklahoma City, Oklahoma 73132.   Sorry.

6           Q     And you were formally an employee of  
7     Grant-Thorton?

8           A     That is correct.

9           Q     And you --

10          JUDGE SAINSOT:   Could you repeat that question  
11     again more slowly for the court reporter?

12     BY MR. REDDICK:

13          Q     Were you formally an employee of  
14     Grant-Thorton?

15          A     I was formally a full-time employee of  
16     Grant-Thorton.   I'm currently a part-time employee of  
17     Grant-Thorton.

18          Q     For the purposes of completing this  
19     assignment?

20          A     That is correct, for the purposes of  
21     completing this assignment.

22          Q     Do you have before you an exhibit entitled

1 Additional Direct Testimony of Lynne D. Decker?

2 A Yes, I do.

3 Q And that document has previously been  
4 marked for identification as City CUB Exhibit 1.0,  
5 consists of 79 pages of testimony in the question and  
6 answer format?

7 A Yes.

8 Q Have you made any changes to that document  
9 since it was served on the other parties and the  
10 administrative law judge?

11 A There have been minor grammatical -- not  
12 grammatical, typographical changes, but no  
13 significant changes.

14 Q Were there any changes in any of the  
15 numbers?

16 A No.

17 Q Were there any changes in the substance of  
18 the testimony?

19 A No.

20 MR. REDDICK: Your Honor, a corrected version  
21 of Ms. Decker's direct testimony has been filed on  
22 e-docket this morning.

1 JUDGE SAINSOT: Has it been labeled as  
2 corrected?

3 MR. REDDICK: I don't believe it was labeled  
4 corrected. We can certainly do that, but I think  
5 it's already been accepted

6 JUDGE SAINSOT: Okay.

7 BY MR. REDDICK:

8 Q Do you also have before you exhibits to the  
9 additional direct testimony of Lynne D. Decker --

10 A Yes.

11 Q -- consisting of 45 exhibits, which are  
12 marked 1.1 through 1.45?

13 MR. REDDICK: Your Honor, I'm informed that it  
14 was labeled corrected

15 JUDGE SAINSOT: Okay.

16 Mr. Reddick, you are very soft spoken,  
17 which is good for other settings but not this one.  
18 You can proceed.

19 MR. REDDICK: Thank you.

20 BY MR. REDDICK:

21 Q And am I correct that there have been no  
22 changes to these exhibits since they were served?



1           A     Yes.

2           Q     Do you also have before you an exhibit  
3     entitled Rebuttal Testimony of Lynne D. Decker, which  
4     has been marked for identification as City CUB  
5     Exhibit 2.0?

6           A     Yes.

7           Q     And that exhibit consists of 35 pages of  
8     testimony in a question and answer format?

9           A     Yes.

10          Q     And have there been any changes to this  
11     testimony since it's been served?

12          A     No.

13          Q     Finally, do you have the exhibits to the  
14     rebuttal testimony of Lynne D. Decker before you?

15          A     Yes.

16          Q     And that consists of 17 documents labeled  
17     2.1 through 2.17?

18          A     There's a 2.8 --

19          Q     Through .17?

20          A     Yes, that's correct.

21          Q     And am I correct that there have been no  
22     changes to these exhibits since they've been served?

1           A     That is correct.

2           Q     Were all of these testimony documents  
3 prepared by you or under your direction?

4           A     Yes.

5           Q     And the exhibits were a part of your  
6 testimony?

7           A     Yes.

8           Q     If I ask you the questions contained in  
9 your testimony, would your answers be the same as  
10 those shown on the written documents?

11          A     Yes, they would be.

12          MR. REDDICK: Your Honor, at this time, we ask  
13 that the Additional Direct Testimony of Lynne D.  
14 Decker marked City CUB Exhibit 1.0, along with her  
15 exhibits marked 1.1 to 1.45, as well as the Rebuttal  
16 Testimony of Lynne D. Decker marked City CUB  
17 Exhibit 2.0, and the related exhibits marked 2.1  
18 through 2.17 be admitted into evidence

19          JUDGE SAINSOT: Any objection?

20          MS. KLYASHEFF: No objection. But can I ask a  
21 question of Mr. Reddick.

22                   Is there a revision marked version of

1 the corrected testimony available?

2 MR. REDDICK: No, but we can probably put one  
3 together.

4 MS. KLYASHEFF: Because I, obviously, haven't  
5 looked at it, but --

6 MR. REDDICK: I will provide one to you.

7 MS. KLYASHEFF: Thank you.

8 No objection.

9 MR. REDDICK: The witness is available for  
10 cross-examination after your ruling

11 JUDGE SAINSOT: I have a question about these.  
12 These are discovery deposition excerpts that are  
13 attached to Ms. Decker's testimony?

14 MR. REDDICK: Some of the exhibits are.

15 JUDGE SAINSOT: What purpose are you admitting  
16 them for?

17 MR. REDDICK: They support her written  
18 testimony.

19 JUDGE SAINSOT: Are these things she relied on?

20 MR. REDDICK: Yes, they are

21 JUDGE SAINSOT: So these are things that she  
22 reviewed in coming to her conclusion.

1           MR. REDDICK:  Yes, they are.

2           JUDGE SAINSOT:  Okay.  For that limited  
3           purpose, I will allow that.

4           MR. JOLLY:  Just for a quick clarification, the  
5           deposition -- the portions of deposition that are  
6           attached reflect quotes that Ms. Decker had in her  
7           direct or her additional direct or her rebuttal  
8           testimony.  And they're just attached to demonstrate  
9           that.

10          JUDGE SAINSOT:  Right.  Okay.

11                        So for purposes of showing the  
12           authenticity of what --

13          MR. REDDICK:  And the accuracy of the  
14           quotations.

15          JUDGE SAINSOT:  All right.

16                        That being the case, your motion is  
17           granted, Mr. Reddick.  City CUB Exhibit 1.0 and 2.0,  
18           which are the Additional Direct Testimony of Lynne D.  
19           Decker and the Rebuttal Testimony of Lynne D. Decker,  
20           are admitted into evidence, as well as City CUB  
21           Exhibits 1.1 through 1.7, which are various  
22           attachments to 1.0, and 2.1 through 2.17, which are

1 various attachments to City CUB Exhibit 2.0, are  
2 admitted into evidence.

3 MR. REDDICK: Your Honor, you listed exhibits  
4 1.1 through 1.7. There are actually 45 exhibits, 1.1  
5 through 1.45.

6 JUDGE SAINSOT: Oh, my goodness. Thank you.

7 So 1.1 through 1.45 are admitted into  
8 evidence.

9 (Whereupon, CITY and CUB Exhibit  
10 Nos. 1.1 through 1.45. And 2.0  
11 were admitted into evidence.)

12 MR. REDDICK: And the witness is available for  
13 cross-examination.

14 MS. KLYASHEFF: The Company has no questions.

15 JUDGE SAINSOT: I have no questions of this  
16 witness.

17 MR. BRADY: Staff has no questions.

18 JUDGE SAINSOT: Okay. I think you're free to  
19 go. In fact, I know it.

20 Thank you.

21 MR. McGUIRE: Off the record.

22

1 (Whereupon, a discussion  
2 was had off the record.)  
3 (Whereupon, there was  
4 a lunch recess taken.)  
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1 (Change of reporters.)

2 JUDGE SAINSOT: For the record, we are calling  
3 Staff witness out of order which is Mr. Anderson.

4 (Witness sworn.)

5 DENNIS ANDERSON,  
6 called as a witness herein, having been first duly  
7 sworn, was examined and testified as follows:

8 DIRECT EXAMINATION

9 BY

10 MR. WEGING:

11 Q Could you state your name and address for  
12 the record, please.

13 A My name is Dennis L. Anderson. My business  
14 address is 527 East Capitol Avenue, Springfield,  
15 Illinois 62701.

16 Q And did you prepare testimony for this  
17 docket?

18 A Yes, I did.

19 Q Do you have before you what has been marked  
20 earlier as ICC Staff Exhibit 2.0 as the direct  
21 testimony of Dennis Anderson -- L. Anderson?

22 A Yes, I do.

1           Q     And that testimony bears on its cover sheet  
2     a date of August 15th, 2003?

3           A     Yes.

4           Q     And that testimony was prepared both in an  
5     unredacted and a redacted version?

6           A     Yes.

7           Q     If I were to ask you the questions  
8     contained in ICC Staff Exhibit 2.0, would your  
9     answers today be substantially the same as in that  
10    docket -- document?

11          A     Yes, they would be.

12          Q     Do you have any changes or corrections to  
13    the testimony to make?

14          A     No, I do not.

15          Q     And was there an attachment to Staff  
16    Exhibit 2.0?

17          A     Yes.

18          Q     What was that attachment?

19          A     It was copies of Gas Agency and Purchase  
20    Agreement.

21          Q     Between Peoples Gas and Enron North  
22    America?



1           A     That's correct

2           Q     At the time it was filed, that document was  
3 completely treated as proprietary?

4           A     Yes.

5           Q     Thank you. Did you also file a testimony  
6 that has been identified as ICC Staff Exhibit 6.0?

7           A     Yes.

8           Q     And that testimony is the additional  
9 direct, slash, rebuttal testimony of Dennis L.  
10 Anderson?

11          A     That's correct.

12          Q     And it bears a date on the cover of  
13 January 7th, 2005?

14          A     Yes.

15          Q     And that testimony also was filed in both  
16 an unredacted and a redacted of the public version?

17          A     Yes.

18          Q     And if I were to ask you the questions  
19 contained in ICC Staff Exhibit 6.0 today, would your  
20 answers today be substantially the same as it is in  
21 Staff Exhibit 6.0?

22          A     Yes.

1           Q     Do you have any changes or corrections to  
2     make to Staff Exhibit 6.0?

3           A     No, I do not.

4           Q     Finally, are you familiar with Staff  
5     Exhibit 11.0?

6           A     Yes, I am.

7           Q     And that is entitled, The Rebuttal  
8     Testimony of Dennis L. Anderson?

9           A     That's correct.

10          Q     And it was dated February 18th, 2005?

11          A     Yes.

12          Q     And this testimony is an entirely public  
13     version?

14          A     That's correct.

15          Q     And if I were to ask you today the  
16     questions contained in Staff Exhibit 11.0, would your  
17     answers be substantially the same as indicated in  
18     Staff Exhibit 11.0?

19          A     Yes, that's true.

20          Q     Do you have any changes or corrections to  
21     make to that exhibit?

22          A     No, I do not.

1           MR. WEGING: I am going to move for the  
2 admission of Staff Exhibits 2.0, 6.0 and 11.0 into  
3 record evidence including Attachment 1. I do want to  
4 say for the record that Staff Exhibit 2.0 was filed  
5 on E-docket on August 18th, 2003, both a public and  
6 the proprietary versions were filed; but, of course,  
7 only the ALJ gets access to the proprietary version  
8 on E-docket. Similarly --

9           JUDGE SAINSOT: For the record, I don't get  
10 access to proprietary versions on E-docket, that's  
11 one reason I insist on having a hard copy.

12          MR. WEGING: My mistake.

13          JUDGE SAINSOT: Everyone thinks that.

14          MR. WEGING: Staff Exhibit 6.0, the unredacted  
15 version was filed January 10th; however, the public  
16 version -- the redacted version was filed on  
17 January 27th -- January 27th, 2005 on E-docket.

18                   And then, finally, Staff Exhibit 11.5  
19 was filed on February 18th, 2005 with that, so that  
20 it can be found on E-docket, at least the public  
21 versions. I move for the admission of these three  
22 exhibits into the record.

1 JUDGE SAINSOT: Any objection?

2 MS. KLYASHEFF: No objection.

3 JUDGE SAINSOT: Okay. Your motion is granted,  
4 Mr. Weging, Staffs Exhibit 2.0, 6.0 and 11.0 which  
5 are the direct, additional direct and rebuttal  
6 testimony of Dennis Anderson are admitted into the  
7 record.

8 (Whereupon, Staff Exhibit  
9 Nos. 2.0, 6.0 and 11.0  
10 were admitted into evidence  
11 as of this date.)

12 MR. WEGING: Let me present you with copies.  
13 As an additional matter, Staff has prepared a public  
14 version of Attachment 1, which was the -- or is the  
15 Enron North America, Peoples Gas GPAA. This was done  
16 consistently with the ALJ's ruling on March 25th of  
17 this year as to portions of the agreement being  
18 public, but certain other parts were still made  
19 confidential. We have not yet filed this yet on  
20 E-docket and we plan to do so as soon as possible so  
21 the public sees the version. I guess I should -- let  
22 me give a public copy to you and to Peoples Gas so

1     they can...

2             JUDGE SAINSOT:   So you would like this admitted  
3     into evidence?

4             MR. WEGING:   Well, it's the public version.  I  
5     believe that -- I didn't do it, Mr. Brady did it and  
6     he checked with everyone.  I don't think there's an  
7     objection to its admission, but...

8             MS. KLYASHEFF:   No objection from the Company.

9             JUDGE SAINSOT:   Okay.  So we're calling this?

10            MR. WEGING:   It's still Attachment 1 to 2.0 but  
11     it's the redacted or public version of it.

12            JUDGE SAINSOT:   And this is the public version  
13     of an attachment to Mr. Anderson's testimony?

14            MR. WEGING:   Right.  And Attachment 1 on the  
15     confidential was complete.

16            JUDGE SAINSOT:   Okay.  All right.  So I will  
17     admit this into evidence and this is the public  
18     version of something that's already admitted, okay.

19            MR. WEGING:   I have nothing further -- no  
20     further questions for Mr. Anderson, so I tender him  
21     for cross-examination.

22            JUDGE SAINSOT:   Any questions?

1 MS. KLYASHEFF: The Company has some questions.

2 CROSS-EXAMINATION

3 BY

4 MS. KLYASHEFF:

5 Q Good afternoon, Mr. Anderson.

6 A Good afternoon.

7 Q I'm Mary Klyasheff and I represent Peoples  
8 Gas. In your testimony, you discussed the GPAA and  
9 the term "GPAA" has been thrown out a lot in this  
10 case and just for clarity in the record, I'm using  
11 the term to mean the Gas Purchase and Agency  
12 Agreement between Peoples Gas and Enron North America  
13 Corporation that was signed in September 1999. Is  
14 that the way in which you use the term in your  
15 testimony?

16 A That's correct.

17 Q Had you reviewed the GPAA prior to this  
18 proceeding?

19 A Not the one for Peoples Gas.

20 Q You had reviewed a version with North Shore  
21 Gas Company?

22 A That's correct.

1           Q     Turning to your direct testimony on Page 10  
2     you use the phrase "least cost alternative".

3           A     What line are you referring to?

4           Q     I believe Line 220.

5           A     Okay.

6           Q     In your opinion, does least cost  
7     alternative mean something different than prudent?

8           A     Yes.

9           Q     Turning to your additional direct and  
10    rebuttal testimony on Page 10, the last question and  
11    answer on that page cites Section 1-102 of the Public  
12    Utilities Act. Is it your testimony that this  
13    section requires Peoples Gas to demonstrate in this  
14    proceeding that its service is provided at least  
15    cost?

16          A     Yes.

17          Q     Is it your testimony that this section of  
18    the Public Utilities Act governs this proceeding?

19          A     I'm not an attorney, so I really couldn't  
20    give you a legal opinion.

21          Q     Is it your testimony that a utility should  
22    contract for the least cost gas alternative?

1           A     In general, yes, there are other factors of  
2     least cost, but, yes.

3           Q     If a utility were contracting for  
4     transportation capacity, for example, and it had a  
5     choice between interruptible transportation and firm  
6     transportation and if the interruptible  
7     transportation were least costly, should the utility  
8     contract for the interruptible transportation?

9           A     That's a hypothetical question, I really  
10    can't answer it based on what you've told me.

11          Q     What else would I need to tell you in order  
12    for you to answer that?

13          A     In the context of the utility operation, if  
14    the utility can't afford to have the service  
15    interrupted then, you know, one could very well  
16    contract for interruptible transportation.

17          Q     Should a utility take reliability into  
18    account when it makes its purchasing and contracting  
19    decisions?

20          A     Yes.

21          Q     And is it possible that taking a  
22    reliability into consideration may mean that it



1 choosesan alternative that is not the least cost  
2 alternative?

3 A Yes.

4 Q Turning back to your direct testimony on  
5 Page 10, with particular reference to the testimony  
6 beginning at Line 219, you testified that there was  
7 no study revealing that the GPAA commodity provisions  
8 were superior to Peoples Gas' historical supply  
9 procurement methodology. Did I correctly describe  
10 your testimony?

11 A Yes.

12 Q Is it your testimony that prudence requires  
13 a gas supply agreement to be superior to a company's  
14 historical practices?

15 A No, I didn't use superior as a measure of  
16 prudence.

17 Q Would your answer be the same with respect  
18 to the immediately following line which -- on that  
19 page, about an alternate supply possibly providing  
20 superior service at a lower cost?

21 A Which line is that?

22 Q Lines 221 through 223.

1           A     Could you restate -- repeat your question?

2           Q     Is it your testimony that prudence would  
3     require a superior alternative to be chosen?

4           A     No.

5           Q     On Page 26 of your direct testimony,  
6     beginning at about Line 566, you discuss studies or  
7     analyses to establish that certain provisions are  
8     superior to the Company's ability to be varying  
9     weather conditions under its historical supply  
10    practices.  Similar to my previous two questions, is  
11    it your testimony that a utility needs to demonstrate  
12    that it has entered into a superior arrangement in  
13    order to show prudence?

14          A     No.

15          Q     If a utility's purchasing practices are  
16    consistent with its historical practices, would you  
17    consider that evidence of prudence?

18          A     I'm not sure I understand your question.  
19    Are you referring to, specifically, Peoples' past  
20    purchasing practices?  Does that -- I mean, I'm not  
21    sure how to respond here.  Are you talking about  
22    suppliers who supply the gas?  Are you talking about

1 the transportation?

2 Q For example, at the top of Page 26 there's  
3 a sentence stating, If Peoples had retained its  
4 historic approach to purchasing gas supply and had  
5 not entered into the GPAA, it would also -- it would  
6 have also retained pricing flexibility. If Peoples  
7 Gas had demonstrated that it had followed its  
8 historic approach, would that have been evidence of  
9 prudence?

10 A No.

11 Q Do you agree that there are any number of  
12 gas purchasing methodologies that can be considered  
13 prudent?

14 A Yes.

15 Q Referring to Page 17 of your direct  
16 testimony, the first question and answer, you stated  
17 that Staff was not aware of another gas -- Illinois  
18 gas utility that dealt with eroding basis by  
19 negotiating an agreement like the GPAA. Is that a  
20 correct description of your testimony?

21 A Yes.

22 Q At the time you prepared your direct

1 testimony, had you asked any other Illinois utility  
2 how, if at all, they dealt with possible basis  
3 changes?

4 A No. I made no investigation. I just  
5 stated that based upon my experience.

6 Q Turning to Page 26 of your direct  
7 testimony, Line 569, you testified that Illinois gas  
8 utilities are confronted with varying usage and  
9 weather conditions and no other Illinois utility  
10 entered into a contract similar to the GPAA. Did I  
11 correctly describe your testimony?

12 A Yes.

13 Q At the time you prepared this testimony,  
14 had you asked any other Illinois utility how, if at  
15 all, it dealt with varying usage and weather  
16 conditions?

17 A No, I did not conduct any study. I relied  
18 on my experience.

19 Q If Peoples Gas dealt with varying usage and  
20 weather in a way that was consistent with how other  
21 Illinois utilities dealt with those conditions, would  
22 this be evidence of prudence?

1           A     No.

2           Q     Do you agree that each utility is unique in  
3     the manner that it forms its gas supply portfolio?

4           A     Yes.

5           Q     Turning to Page 16 of your direct  
6     testimony, particularly the question that begins at  
7     Line 348.  You're discussing renegotiating pipeline  
8     contracts.  Is it your testimony that this  
9     renegotiation could involve Peoples Gas shifting  
10    capacity from one pipeline to another pipeline?

11          A     Yes.

12          Q     Do you agree that capacity on one pipeline  
13    is not necessarily to substitute for a capacity on  
14    another pipeline?

15          A     Yes.

16          Q     Do you agree that factors other than price  
17    may affect a utility's decision to contract with a  
18    pipeline?

19          A     Yes.

20          Q     And is it prudent for a utility to consider  
21    factors other than price when contracting for  
22    pipeline capacity?

1           A     Yes.

2           Q     Referring to Page 24 of your direct  
3 testimony, the top of the page, Line 511 you  
4 testified That if Enron chose not to sell the full  
5 incremental quantity to Peoples Gas -- the summer  
6 incremental quantity, that Peoples Gas must purchase  
7 this volume of gas as daily incremental quantity from  
8 Enron or another alternative supplier. Did I  
9 correctly describe your testimony?

10          A     Yes.

11          Q     Do you agree that the GPAA does not impose  
12 the daily purchase obligation that you describe?

13          A     Yes.

14          Q     On Page 15 of your additional direct and  
15 rebuttal testimony, specifically, Lines 307 through  
16 311.

17               JUDGE SAINSOT: Page 15, Miss Klyasheff?

18               MS. KLYASHEFF: Yes.

19 BY MS. KLYASHEFF:

20          Q     You testified that an absence of certain  
21 documentation causes the utility to fail in meeting  
22 its required burden of proof. Did I correctly

1 describe that part of your testimony?

2 A I think you correctly summarized it.

3 Q And you were testifying with respect -- or  
4 with reference to Section 9-220 of the Public  
5 Utilities Act; is that correct?

6 A That's correct.

7 Q Is this statement about failing to meet the  
8 burden of proof your legal conclusion?

9 A No, I'm not an attorney.

10 Q In your testimony you discuss the concept  
11 of displacement. For example, on Page 27 of your  
12 additional direct and rebuttal testimony there's a  
13 footnote in which you describe what you mean by the  
14 term "displacement." Are you aware of any gas supply  
15 transaction using the Interstate Pipeline System that  
16 would result in a customer receiving the same  
17 molecules of gas that that customer delivered into  
18 the system?

19 A No. When I made that definition of  
20 displacement, I used it as an example I provided in  
21 my testimony, that would add clarity to it.

22 Q Is it even possible to know if the

1       molecules are the same?

2               A       No.

3               Q       Referring to Page 32 of your additional  
4       direct and rebuttal testimony, Lines 654 through 657,  
5       you use the phrase "system supply gas." Could you  
6       define the term the way you use it in your testimony?

7               A       System supply gas is, you know, basically  
8       the resources that Peoples has to perform that  
9       transaction.

10              Q       What transaction are you referring to in  
11       your answer?

12              A       The loans.

13              Q       And system supply gas, you're defining as  
14       the resources available to perform a loan?

15              A       It's the natural gas that's available that  
16       Peoples has to perform the transaction.

17              Q       What natural gas would be available to  
18       Peoples Gas?

19              A       Its supply of PGA gas.

20              Q       Does Peoples Gas have transportation  
21       customers on its system?

22              A       Yes.



1           Q     Does Peoples Gas deliver gas to those  
2     end-use transportation customers?

3           A     They provide the transportation for the  
4     gas; that's correct.

5           Q     Does Peoples Gas purchase the gas that it  
6     delivers to those customers?

7           A     I really can't answer that. I don't know  
8     the structure of Peoples marketing, whether it's  
9     purchased from Peoples or somebody else.

10          Q     Do you know if the gas is ever purchased  
11     from entities other than Peoples Gas, the utility?

12          A     I don't testify to that and I don't know  
13     that as a fact.

14          Q     Referring to Page 42 of your additional  
15     direct and rebuttal testimony, on Line 833 you use  
16     the phrase "peak winter period." Can you define  
17     "peak winter period," the way you've used in your  
18     testimony?

19          A     I've used the term in what I consider it as  
20     a general term that's used in the gas industry. The  
21     peak winter period is usually considered to be  
22     December, January and February.

1           Q     In your opinion, does the peak winter  
2     period occur at the same time each year?

3           A     No.

4           Q     In your opinion, should the timing of  
5     withdrawals from Manlove Storage Field be determined  
6     by gas prices?

7           A     Price can be a factor.

8           Q     What other factors may exist?

9           A     In my opinion, the primary factor is to  
10    have gas available for system supply and the  
11    secondary factor would be price.

12          Q     If system requirements were low and prices  
13    were relatively low, would you expect less gas to be  
14    withdrawn from Manlove Field?

15          A     That's a hypothetical question. I really  
16    can't answer it.

17          Q     Are there other considerations, other  
18    factors you would need to know?

19          A     You need to know the pattern of weather,  
20    where you're at in the winter, what you're projecting  
21    gas prices to be in the future, I mean, it's a  
22    complex problem, the Utility has to solve on those

1 main factors.

2 Q Are there operational factors relative to  
3 the geology of the storage field that may affect the  
4 decision?

5 A Yes.

6 Q Prior to joining the Commission, I think  
7 you were employed at Illinois Power; is that correct?

8 A That's correct.

9 Q While at Illinois Power, were you involved  
10 in scheduling gas supply?

11 A Not specifically. I worked in a  
12 department. I was -- basically had the engineering  
13 operational responsibilities for the operation of  
14 their storage fields, both aquifer and dry gas and  
15 their propane peak facilities, so I was basically  
16 involved in the decisions but that was not my primary  
17 responsibility.

18 MS. KLYASHEFF: I have no further questions.

19 Thank you.

20 JUDGE SAINSOT: I have, I think, two questions  
21 of Mr. Anderson.

22

1 EXAMINATION

2 BY

3 JUDGE SAINSOT:

4 Q Mr. Anderson, the rebuttal on Page 17 you  
5 said that Peoples Gas can negotiate lower pipeline  
6 rates through shifting the load between competing  
7 pipelines. Could you explain this a little bit?

8 A Well, Peoples has, I believe, six pipeline  
9 suppliers and they have flexibility within those  
10 pipeline suppliers to shift loads. I agree that  
11 pipeline capacity is not totally interchangeable  
12 because of physical strengths within Peoples own  
13 pipeline gas system; but as Peoples has said in  
14 testimony, they have shifted load in the past,  
15 Witness Wear testified to that fact.

16 And I presented this load shifting as  
17 a common practice in my view of the industry to get  
18 better rates by negotiating with pipeline companies to  
19 shift load. By putting more load on a pipeline, you  
20 can get discounts below what, you know, the max rates  
21 filed before FERC are. In my testimony, I simply  
22 said that I believe they should have tried that

1 strategy if they were worried about basis erosion.

2 JUDGE SAINSOT: You know, that's my only  
3 question, thank you.

4 MR. WEGING: I'd like to ask one question.

5 REDIRECT EXAMINATION

6 BY

7 MR. WEGING:

8 Q Did -- in your opinion, did Peoples Gas  
9 demonstrate that the GPAA was the least cost reliable  
10 supply option available to it in this reconciliation  
11 period?

12 A No.

13 MR. WEGING: I have nothing further.

14 MS. KLYASHEFF: Nothing further.

15 JUDGE SAINSOT: Thank you, Mr. Anderson.

16 Miss Klyasheff, you are calling  
17 Mr. Wear?

18 MS. KLYASHEFF: Yes.

19

20

21

22

1 (Witness sworn.)

2 DAVID WEAR,

3 called as a witness herein, having been first duly  
4 sworn, was examined and testified as follows:

5 DIRECT EXAMINATION

6 BY

7 MS. KLYASHEFF:

8 Q Please state your name and business address  
9 for the record.

10 A My name is David Wear. Business address is  
11 130 East Randolph Drive, Chicago 60601.

12 Q You have an enormous stack of documents  
13 before you. One of which is entitled, Direct  
14 Testimony of David Wear and marked for identification  
15 as Respondent's Exhibit B.

16 The second document entitled,  
17 Additional Direct Testimony of David Wear and marked  
18 for identification as Respondent's Exhibit C.

19 The third document entitled, Rebuttal  
20 Testimony of David Wear and marked for identification  
21 as Respondent's Exhibit F.

22 The fourth document entitled,

1 Additional Rebuttal Testimony of David Wear marked  
2 for identification as Respondent's Exhibit L.

3 And, finally, a document entitled,  
4 Surrebuttal Testimony of David Wear and marked for  
5 identification as Respondent's Exhibit O.

6 Do these five documents contain the  
7 testimony that you wish to give in this proceeding?

8 A Yes, they do.

9 Q Are there any changes or corrections to  
10 make to any of these documents?

11 A No, there are not.

12 Q Were I to ask you the questions included in  
13 these documents, would your answers be the same as  
14 contained in these documents?

15 A Yes.

16 Q Do you adopt these documents as your sworn  
17 testimony in this proceeding?

18 A I do.

19 Q You have before you other documents that  
20 have been marked for identification as Exhibit  
21 Nos. 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15,  
22 18 and 19. Are these the exhibits that you refer to

1 in your testimony by reference to these exhibit  
2 numbers?

3 A Yes, they are.

4 Q Were these exhibits prepared by you or  
5 under your supervision and direction?

6 A Yes, they were.

7 MS. KLYASHEFF: Subject to cross-examination,  
8 we move for the admission of Respondent's Exhibits B,  
9 C, F, L, and O and numbered exhibits 2 through 15 and  
10 18 and 19.

11 JUDGE SAINSOT: Any objection?

12 MR. BRADY: No objection.

13 MR. KAMINSKI: No objection.

14 JUDGE SAINSOT: Okay. That being the case,  
15 Miss Klyasheff, your motion is granted and Peoples  
16 Exhibits B, C, F, L and O, which are all testimony by  
17 David Wear are admitted into evidence and PGL  
18 Exhibits 2 through 15 as well as 18 and 19, which are  
19 attachments to Mr. Wear's testimonies are admitted  
20 into evidence.

21

22



1 (Whereupon, Peoples Gas  
2 Exhibit Nos. B, C, F, L, O  
3 and PGL Exhibits 2-15, 18 and 19  
4 were admitted into evidence  
5 as of this date.)

6 MS. KLYASHEFF: I have no questions for  
7 Mr. Wear at this time. He is available for cross.

8 MR. KAMINSKI: Your Honor.

9 CROSS-EXAMINATION

10 BY

11 MR. KAMINSKI:

12 Q Hello, Mr. Wear, my name is Mark Kaminski.  
13 I work with the Illinois Attorney General's Office  
14 and am here on behalf of the People of the State of  
15 Illinois. Mr. Wear, you discuss the basis  
16 differential between gas prices at the well head and  
17 the Chicago citygate price in your testimony;  
18 correct?

19 A Do you have a specific citation I can refer  
20 to?

21 Q You discussed this on your additional  
22 direct, Pages 5 through 11.

1           A     Yes, I testified to basis differentials.

2           Q     Referring to Page 7 of your additional  
3     direct, Line 128, you use basis to describe the  
4     difference in gas prices at a location in the field  
5     area and gas prices at the Chicago citygate; correct?

6           A     I use that as an example of how I use the  
7     term in my testimony, yes.

8           Q     Referring to the term or phrase "field  
9     area," does that mean gas at the well head or gas at  
10    a specific trading point or both?

11          A     It could be either.

12          Q     And that it is or could be the gas trading  
13    point, what would you consider a gas trading point?

14          A     Well, the Company typically buys its  
15    supplies from trading points rather than at the well  
16    head. The well head tends to be operated by a small  
17    producer in many times and the amount of gas that's  
18    produced by that well can vary greatly. So we  
19    purchase at trading points or pooling points where  
20    gas is aggregated and we construct our contracts so  
21    that we know that there's going to be adequate supply  
22    at these trading points. These trading points can be

1 anywhere throughout the continental U.S. in the major  
2 supply basins, either the Gulf Coast or  
3 mid-continent, South Texas, for example, offshore  
4 Louisiana.

5 Q Thank you. Referring to Page 7, Line 149  
6 of your additional direct.

7 A Line 149?

8 Q 149.

9 A On Page 8?

10 Q Page 7.

11 A Okay. Could you read that line to me  
12 because I may have a different version here.

13 Q It states that -- the beginning of the line  
14 says, Decline in Chicago basis is the same as a  
15 decline in the value of transportation.

16 A Okay. Thank you.

17 Q Do you have a different pagination than us?

18 A I have the sentence beginning at the bottom  
19 of Page 7.

20 Q Okay. In that line you use the term  
21 "Chicago basis." Now, in your earlier description of  
22 how you'd use "basis" on Line 128 and your use of the

1 term "Chicago basis," is that synonymous?

2 A Yes, it is.

3 Q Thank you. You cite a decline in basis  
4 differential for Peoples Gas' transport capacity  
5 rights as a major factor that led to Peoples Gas  
6 executing the GPAA with Enron North America; correct?

7 A I don't know that I said it was a major  
8 component; but certainly, that was a consideration  
9 that we were looking at -- protecting against when we  
10 entered the GPAA. The GPAA did a lot of things  
11 besides protect us against a decline in basis.

12 Q Could you refer to your rebuttal testimony,  
13 Exhibit F, Page 15. The first full sentence of that  
14 page which starts at Line 311, you say, As discussed  
15 at length in my additional direct testimony, the  
16 expectation of declining basis and its relationship  
17 to the costs of variable transportation and the  
18 affect on the value of that capacity was another  
19 major factor that would affect gas costs.

20 A Is there a question there.

21 Q I was asking is that what that says?

22 A Yes.

1           Q     Thank you. Prior to entering into the  
2     GPAA, Peoples Gas had long-term firm agreements with  
3     Natural Gas Pipeline of America for gas transport;  
4     correct?

5           A     To what period are you referring? Are you  
6     referring to the entire period prior to the GPAA?

7           Q     At the time prior to the GPA going into  
8     effect.

9           A     Immediately prior to the GPA going into  
10    effect, the Company had transportation agreements  
11    with Natural Gas Pipeline for firm transportation. I  
12    think that the term of those agreements were probably  
13    in the order of two to five years in length, I don't  
14    know exactly -- there were probably several contracts  
15    in varying lengths, whether two to five years is  
16    long-term, I'm not sure.

17          Q     Referring back to your additional direct at  
18    Page 7, 149 where we were before. You claim that the  
19    value -- I'm sorry, are you there?

20          A     Yes.

21          Q     You claim that the value of Peoples Gas'  
22    transport agreements is related to the basis

1 differential between the well head and the Chicago  
2 citygate; correct?

3 A Well, between the field locations, these  
4 trading points that we discussed and the citygate,  
5 that's what I was referring to there, yes.

6 Q Now, referring to Page 5 of your additional  
7 direct, Lines 101 through 114. Your testimony claims  
8 that the basis differential between the field area  
9 and the Chicago citygate was declining; correct?

10 A If I could, I think the testimony says, The  
11 Company concluded that there existed a strong  
12 likelihood that basis from respondent's field  
13 purchase locations would be negatively affected. So,  
14 I think it was part experience and part projection,  
15 yes.

16 Q Your testimony states that a decline in  
17 basis is significant because a declining Chicago  
18 basis is the same as a declining value of  
19 transportation; correct?

20 A I think that's generally true.  
21 Transportation is pretty much valued at what the  
22 market determines as the basis differentials at any

1 given time. So a decline in basis wouldn't  
2 necessarily translate into a decline in value of that  
3 asset.

4 Q Okay. Referring to Page 8 of your  
5 additional direct, you claim that Exhibit 2 and  
6 Exhibit 3 to your testimony show that the basis was  
7 declining prior to Peoples Gas entering into the  
8 GPAA; correct?

9 A I think the data shows a trend in the  
10 decline in basis differentials for a period prior to  
11 the GPAA as well as to a period beyond which the GPAA  
12 began. So I guess my answer is, in part, yes, it was  
13 a decline in basis prior to the GPA but it also  
14 showed that trend continuing.

15 Q And that trend to which you speak in the  
16 times after the GPAA, are you referring to  
17 projections?

18 A That's correct.

19 Q Referring to Exhibit 3 to your additional  
20 direct testimony. Are you there?

21 A Yes.

22 Q Exhibit 3 contains two sets of charts. The

1 first is three charts showing the yearly basis  
2 differential from 1995 through 1999 and estimating  
3 the yearly basis for 2000 and 2001; correct?

4 A That's correct.

5 Q And each of the three charts is for a  
6 different delivery point; correct?

7 A Yes, correct.

8 Q And on each of these charts it states that  
9 the source of this information is CERA?

10 A That's correct.

11 Q And the second set of charts consists of  
12 eight charts showing a monthly basis differential for  
13 October 1999 projected through October of 2004;  
14 correct?

15 A That's correct.

16 Q And each of these charts is for a different  
17 delivery point; correct?

18 A Yes.

19 Q And the source stated for those charts is  
20 Peoples Energy; correct?

21 A Yes.

22 Q Referring to your rebuttal at Page 6,



1 specifically, Line 114, you state in response to  
2 Staff Witness Rearden that, If initial basis  
3 differentials were low and, slash, or the yearly  
4 declines in the differential proved to be large  
5 enough, comma, then purchasing gas at the citygate --  
6 at a citygate index would lead to a lower cost --  
7 would lead to lower gas costs; correct?

8 A That's what the testimony says, yes.

9 Q Where you state, If the initial basis  
10 differentials were low and/or the yearly declines in  
11 these differentials prove to be large enough, does  
12 this statement refer to the charts on Exhibit 3  
13 attached to your additional direct testimony?

14 A Not specifically. I think this -- the  
15 charts themselves and the statement were meant to  
16 depict that the possibility that this could occur at  
17 any of the places where the Company purchases gas.  
18 The charts -- we did not purchase gas from every  
19 single point that the charts indicated, but we  
20 purchased at some of them, we purchased at others  
21 that there wasn't data presented for, so I think it  
22 was intended to be more of a general remark towards

1     how basis could decline at any number of places.

2             Q     Back on Page 8 of your additional direct,  
3     Lines 172 and 173.

4             A     Okay.

5             Q     You claim that the data in the attached  
6     Exhibits 2 and 3 indicate a projected decline in  
7     basis differentials slightly greater than 1 cent per  
8     MMBtu per year; correct?

9             A     That's what the testimony says.  Again,  
10    that number was derived at putting a best fit line to  
11    the data and measuring the slope of that line.

12            Q     And when you're referring to the best fit  
13    data and the measurement of sloping line, you're  
14    referring to the charts in Exhibit 3?

15            A     Yes, I am.

16            Q     You're referring to the second set of  
17    charts, those were the source of Peoples Energy;  
18    correct?

19            A     I believe it's for all of the charts.

20            Q     Referring to Pages 8 and 9 of your  
21    additional direct, you state that this value, which  
22    is on Line 173, is obtained by determining the

1     average slope of the linear regressions shown on  
2     Exhibit 3; correct?

3             A     I'm sorry, I had the wrong testimony in  
4     front of me when you said that.

5             Q     Referring -- would you like me to  
6     restate --

7             A     Additional direct testimony; is that  
8     correct?

9             Q     That's correct.

10            A     And the line number again?

11            Q     173.

12            A     Okay. If you would, please, repeat the  
13     question for me just so I'm sure I'm clear.

14            Q     You state, starting at 173, This value is  
15     obtained by determining the average slope of the  
16     linear regressions shown in Exhibit 3; correct?

17            A     Well, I think you paraphrased, but that's  
18     the essence of the statement.

19            Q     The value that's being referred to, that's  
20     the 1 cent MMBtu per year?

21            A     Yes. 1 cent, again, is the average slope  
22     of the lines of all the charts from the equation --

1 the simple linear regression equation that fit all  
2 those lines.

3 Q Referring to your rebuttal testimony at 10.

4 A Did you say additional rebuttal?

5 Q No. Simple rebuttal. Are you there?

6 A Yes.

7 Q Starting on Line 218 you state, The only  
8 significant changes in the GPAA for its historical  
9 purchasing practices were the process of arriving at  
10 the GPAA and a desire by the Company to protect its  
11 transportation assets from the damaging effects of a  
12 potential dramatic decline in basis; correct?

13 A Yes, that's correct.

14 Q Does this potential dramatic decline in  
15 basis refer to the projected decline of basis  
16 differentials slightly greater than the 1 MMBtu per  
17 year that you assert in your additional direct  
18 testimony?

19 A No. I think that my testimony -- either  
20 this one or other testimonies that I've put into  
21 evidence today emphasize the fact that there were  
22 many different scenarios that were being projected.

1     The 1 cent decline in basis was one scenario that I  
2     arrived at using the CERA data and the Company's  
3     data. There were many other scenarios that showed  
4     basis declining much more rapidly than that. So what  
5     we were projecting -- protecting against and what I  
6     was referring to is a dramatic decline in basis would  
7     have been something much larger than the 1 cent that  
8     I had in the testimony.

9           Q     Looking at Page 24 of your rebuttal, lines  
10    529 and 530, you refer to the real potential for a  
11    significant decline; correct?

12           A     That's correct.

13           Q     And you're referring to a significant  
14    decline in basis; correct?

15           A     Yes.

16           Q     Is Exhibit 3, which is attached to your  
17    direct -- additional direct testimony, the basis of  
18    your reference to the real potential for a  
19    significant decline in basis?

20           A     Again, no. I think that what I was  
21    referring to there was other more dramatic scenarios  
22    in which the decline was much greater.

1           MR. KAMINSKI: May I approach the witness?

2           JUDGE SAINSOT: Yes, you may.

3 BY MR. KAMINSKI:

4           Q     Providing what has been marked as Wear  
5 Cross Exhibit No. 1 before you, do you recognize this  
6 as Peoples Gas Light and Coke's response to Data  
7 Request OAG 4.007?

8           A     Yes.

9           Q     And, Mr. Wear, you are identified in the  
10 response to OAG 4.007 as the responsible witness;  
11 correct?

12          A     That's correct.

13          Q     Did you prepare this response?

14          A     Either I or someone under my direction  
15 prepared this response.

16          MR. KAMINSKI: Your Honor, I'd like to move for  
17 Wear Cross Exhibit No. 1 to be entered into the  
18 record.

19          JUDGE SAINSOT: Any objection?

20          MS. KLYASHEFF: No.

21          JUDGE SAINSOT: Okay. Your motion is granted,  
22 Mr. Kaminski, Wear -- AG Wear Cross Exhibit No. 1 is

1 entered into evidence.

2 (Whereupon, AG Wear  
3 Cross Exhibit No. 1 was  
4 admitted into evidence as  
5 of this date.)

6 MR. KAMINSKI: Thank you.

7 BY MR. KAMINSKI:

8 Q Mr. Wear, the Data Request OAG 4.007 -- I'm  
9 sorry, Exhibit No. 1 asked Peoples to provide the  
10 linear regression equationsreferred to in your  
11 testimony; correct?

12 A Yes.

13 Q Exhibit No. 1 -- Exhibit -- Wear Cross  
14 Exhibit No. 1 asked Peoples to provide the  
15 calculations supporting the projection decline in  
16 basis differentials referredto in your testimony;  
17 correct?

18 A Yes.

19 Q And Wear Cross Exhibit 1 also asked Peoples  
20 to provide the coefficients of determination for each  
21 of the linear regression equationsreferred to in your  
22 testimony; correct?

1           A     Yes.

2           Q     Mr. Wear, in response to Wear Cross Exhibit  
3     No. 1, PGLC did not -- I'm sorry, Peoples Gas Light  
4     and Coke did not provide the linear regression  
5     equations and coefficients of determinations  
6     supporting the projected decline in basis  
7     differentials; correct?

8           A     That seems to be the case, yes.

9           Q     Peoples Gas did state in Exhibit 1 that the  
10    linear regression equations and coefficients of  
11    determination would not be statistically sound for  
12    analysis; correct?

13          A     That's correct.

14          Q     On that exhibit, as an example, you refer  
15    to the chart showing Peoples Energy data for  
16    mid-continent to Chicago in Exhibit 3 attached to  
17    your direct testimony; correct?

18          A     In the attachment to this exhibit?

19          Q     The bottom of that exhibit states a  
20    response, there's an example there; correct?

21          A     Yes.

22          Q     And in that example you refer to the chart



1 showing Peoples Energy data for mid-continent to  
2 Chicago that is in Exhibit 3 attached to your direct  
3 testimony; correct?

4 A Yes.

5 Q Would you please turn to that chart.

6 JUDGE SAINSOT: Are you back on Exhibit 3,  
7 Mr. Kaminski?

8 MR. KAMINSKI: Yes. Exhibit 3, specifically  
9 the chart that's labeled, Mid-continent to Chicago.

10 JUDGE SAINSOT: Thank you.

11 MR. KAMINSKI: I would note that there are two  
12 charts in the Exhibit 3 that have that designation.  
13 It is the one with the source of Peoples Energy.

14 JUDGE SAINSOT: Thank you.

15 BY MR. KAMINSKI:

16 Q Mr. Wear, looking at this chart, this data  
17 shows the basis from October 1999 projected through  
18 October 2004; correct?

19 A Yes.

20 Q Now, looking at this chart, this chart  
21 indicates that the basis differential is mainly  
22 seasonal in nature; correct?

1           A     I'm not sure I understand your question.

2           Q     The basis is higher in the months November  
3     through March than in the months April through  
4     October; correct?

5           A     Yes.

6           Q     And the first data point in this chart is  
7     October; correct?

8           A     Yes.

9           Q     The next five data points in the chart are  
10    at the seasonal peak, and by "seasonal peak," I mean  
11    November through March; correct?

12          A     That would follow, yes.

13          Q     And the last seven data points in this  
14    chart reflect the seasonal low for the basis  
15    differential; correct?

16          A     The last seven data points would represent,  
17    it appears, April through October of '04.

18          Q     And would you say that seasonally those are  
19    lower than the months, November through March?

20          A     Yes.

21          Q     Now, each of the basis charts attached to  
22    your additional direct which have the source, Peoples

1     Energy, cover the same dates, namely, October '99  
2     through October 2004; correct?

3             A     Yes.

4             Q     Each of the basis charts attached to your  
5     additional direct, with that Peoples Energy source,  
6     start with the five out of six data points at the  
7     seasonal peak and end with seven data points at the  
8     seasonal low; correct?

9             A     Each of the charts begin with October '99  
10    and end with October '04. I think your  
11    characterization of what is a peak and what is not a  
12    peak is subjective.

13            Q     Do you not agree that in the chart you're  
14    referring to the mid-continent to Chicago, that the  
15    basis is higher in the months November through March  
16    than in the months April through October for each of  
17    the years presented here.

18            A     That's true.

19            Q     Each of the charts in your Exhibit 3  
20    provide a trend line; correct?

21            A     That's correct.

22            Q     And the trend line is what you base the

1 slightly greater than 1 cent MMBtu number on;

2 correct?

3 A That's correct.

4 Q The choice of the starting point and ending  
5 point of these charts could influence the observed  
6 trend line in these charts; correct?

7 A I think anytime you change the data set,  
8 you're going to get different results. The purpose  
9 here was to use the data that was readily available  
10 in trying to establish some support for my testimony.  
11 It could have easily shortened the period, used only  
12 winter data, used only summer data or tried to fit  
13 multiple lines to this chart. This was simply one  
14 way to show a general trend, which is what I  
15 testified that it was, it wasn't the only trend that  
16 was observed; but it was a general trend that our  
17 data supported. So you could use the data in a  
18 variety of different ways for a variety of different  
19 results. This is the way I chose to depict it.  
20 There was no purpose other than that was what was  
21 available to me.

22 Q Did you test what the trend line would have

1 shown if the chart began in April of the first year  
2 and ended in March of the last year?

3 A No, I didn't.

4 Q In your additional direct testimony, Page 9  
5 on Line 182 you state, The charts in Exhibit 3 show  
6 that the projected base differentials are lowest in  
7 April through October when transportation assets are  
8 more readily available for optimization; correct?

9 A Yes, that's correct.

10 Q You use the term "optimization" to mean  
11 loaning Peoples Gas' transportation rights to third  
12 parties in order to earn revenue from those rights;  
13 correct?

14 MR. MULROY: I'm sorry, are you reading from  
15 something? I missed it.

16 MR. KAMINSKI: I'm not reading from anything.

17 MR. MULROY: Would you mind if I could hear the  
18 question once more.

19 THE WITNESS: Would you repeat the question,  
20 please.

21 JUDGE SAINOT: You want the question repeated?

22 MR. MULROY: Please.

1 (Record read as requested.)

2 THE WITNESS: Well, I don't recall my defining  
3 optimization in that fashion, no.

4 BY MR. KAMINSKI:

5 Q Do you disagree with that definition?

6 A I do.

7 Q Optimization can only be done when Peoples  
8 Gas is not using their transportation rights to serve  
9 its retail customers; correct?

10 A Yes, that's true. If our -- if we're using  
11 our assets to serve our needs, then they would not be  
12 available for optimization. It's only under those  
13 instances when the assets are unutilized that they  
14 would be available for optimization. Optimization  
15 can take place by the Company, it can take place in a  
16 variety of manners. I don't believe that loaning the  
17 asset to someone else to generate revenue from is  
18 what I would characterize as optimization.

19 Q When the transportation asset is optimized,  
20 it is in order to earn revenue; correct?

21 A The purpose of optimizing our assets when  
22 they're not needed for serving our customers would be

1 to generate a credit towards the gas charge.

2 Q And just to clarify, optimization only can  
3 be done when the transportation rights are not  
4 otherwise being used by Peoples Gas; correct?

5 A In the context of this part of the  
6 testimony, that's correct.

7 Q Okay. Outside of optimization, Peoples  
8 Gas' transportation rights are valuable to Peoples  
9 Gas during the peak transportation season; correct?

10 A Peoples contracts for a firm capacity for a  
11 variety of reasons. One is for reliability. One is  
12 to procure sources of supply from a variety of  
13 locations and hopefully at an econometrically viable  
14 price. So, therefore, the -- there is value in  
15 having that for a lot of reasons during the winter  
16 season, if that's what you mean.

17 Q Do you agree that one of the ways that that  
18 is valuable is for Peoples Gas to use those  
19 transportation rights during the peak transportation  
20 season?

21 A That would be one of the reasons that we  
22 have it, yes, is to serve our market during the

1 winter season. Another might not be the sole reason  
2 for having that asset.

3 Q Going back to the charts on Exhibit 3 to  
4 your additional direct testimony, specifically  
5 those -- with Peoples Energy as its source. During  
6 the seasonal peak, November through March, your  
7 monthly charts show the basis differentials are much  
8 higher than the rest of the year; correct?

9 A That's what the charts show, yes.

10 Q Those same charts project the basis  
11 differential for some seasonal peak months to be  
12 double or more than that of the off peak months;  
13 correct?

14 A That's what the charts show, yes.

15 Q Prior to transfer -- sorry, strike that.

16 Prior to transferring its  
17 transportation rights over to Enron North America,  
18 when basis differentials were high, Peoples Gas was  
19 able to buy gas directly from the field area and  
20 transport that gas to the Chicago citygate using its  
21 transportation rights; correct?

22 A That's correct.



1 JUDGE SAINSOT: Mr. Kaminski, do you have a lot  
2 more?

3 MR. KAMINSKI: Yes.

4 JUDGE SAINSOT: Why don't we take a 15-minute  
5 break.

6 (Break taken.)

7 JUDGE SAINSOT: You can proceed, Mr. Kaminski.

8 MR. KAMINSKI: Thank you.

9 BY MR. KAMINSKI:

10 Q Mr. Wear, would you agree that seasonal  
11 peak for basis differentials coincides for the  
12 seasonal peak for natural gas prices?

13 A I don't know if I can make that  
14 determination.

15 Q The seasonal peak that I referred to  
16 earlier of the -- strike that.

17 The seasonal peak that I referred to  
18 earlier of November through March for the basis  
19 differentials is also the time, generally, where gas  
20 prices are higher than the rest of the months of the  
21 year; correct?

22 A Generally speaking, that's probably true

1 but it's certainly not true in every instance. There  
2 can be and have been times when summer prices are  
3 higher than winter prices and, presumably, summer  
4 basis could be lighter than winter basis as well.

5 Q Thank you. Peoples Gas' transportation  
6 rights allow Peoples Gas to bypass higher winter  
7 Chicago citygate basis and buy directly from the  
8 field area for a portion of their retail gas load;  
9 correct?

10 A To the extent that the basis differentials  
11 associated with a piece of given transport are wider  
12 than the variable costs of that transport, then  
13 Peoples Gas could purchase in the field and transport  
14 that gas to the citygate at less than a citygate  
15 price and Peoples Gas did do that during the  
16 reconciliation period.

17 Q Thank you. Peoples Gas does not enter into  
18 transport agreements specifically so that they can  
19 optimize that transport capacity, do they?

20 A Peoples Gas would enter into firm  
21 transportation agreements as -- for a variety of  
22 reasons. Solely for the purpose of optimization

1 would not tend to be one of them.

2 Q So the answer is no?

3 A Would you restate the question?

4 Q Peoples Gas does not enter into transport  
5 agreements specifically so that it can optimize that  
6 transport capacity; correct?

7 A Not solely for the reason of optimization;  
8 but, certainly we understand that optimization  
9 potential is there.

10 Q So the answer to the question I asked is  
11 yes; correct?

12 A I tried my best to answer your question the  
13 way I understood it and we would not sign up for  
14 transportation solely for the purpose of  
15 optimization. However, we would sign up for a piece  
16 of transportation if we knew it could be used for  
17 optimization when it wasn't being used for other  
18 reasons.

19 Q Okay. Just one more time. Peoples Gas --  
20 please answer just yes or no to this specific  
21 question -- Peoples Gas does not enter into transport  
22 agreements specifically so that it can optimize that

1 transport capacity; correct?

2 MR. MULROY: Your honor, I have to object to  
3 the lawyer directing the witness how to answer the  
4 question. I think if it can be answered yes or no,  
5 that's fine; but if he can't, he should have the  
6 right, especially in this hearing, to answer --

7 JUDGE SAINSOT: I think it could be answered  
8 yes or no, Mr. Mulroy.

9 MR. MULROY: I think he's answered it three  
10 times already, but that's fine.

11 THE WITNESS: Bear with me. Could you or have  
12 the court reporter read it again.

13 (Record read as requested.)

14 THE WITNESS: Yes.

15 BY MR. KAMINSKI:

16 Q Referring to your additional direct  
17 testimony on Page 14, Lines 293 through 300. You  
18 describe the summer incremental quantity or SIQ  
19 volumes set out in the Gas Procurement Agency  
20 Agreement; correct?

21 A The Gas Purchase and Agency Agreement, yes.

22 Q Now, referring to Page 16 of your

1 additional direct, Lines 340 to 343 you state that  
2 the applicable -- I'm sorry, you state that the price  
3 applicable to the SIQ was the same as applicable to  
4 base load quantity; correct?

5 A That's correct.

6 Q And the price applicable to the base load  
7 quantity was the Chicago citygate first of the month  
8 as reported in natural gas intelligence minus  
9 3 cents; correct?

10 A That's correct.

11 Q Under the SIQ provision during the summer  
12 period, Enron North America had an obligation to  
13 provide 45,000 MMBtu of gas per day to Peoples Gas;  
14 correct?

15 A That was the minimum quantity of SIQ each  
16 day during the summer period; yes.

17 Q Under the SIQ provision, during the summer  
18 period, Enron North America was not obligated to  
19 provide any more than 45,000 MMBtu of gas per day to  
20 Peoples Gas; correct?

21 A That's correct.

22 Q Under the SIQ provision, during the summer

1 period, Peoples Gas was obligated to purchase from  
2 Enron North America up to 125,000 MMBtu of gas per  
3 day whenever ENA chose to deliver more than the  
4 45,000 MMBtu minimum SIQ; correct?

5 A Correct.

6 Q Under the SIQ provision, during the summer  
7 period, Peoples Gas did not determine the volume of  
8 SIQ gas that the Enron -- strike that.

9 Under the SIQ provision, during the  
10 summer period, Peoples Gas could not determine the  
11 volume of SIQ gas that Enron North America would  
12 deliver; correct?

13 A When you say that Peoples Gas could not  
14 determine that amount, what do you mean?

15 Q They had no control over the amount that  
16 Enron North America would deliver under the SIQ  
17 provision?

18 A That's correct.

19 Q Under the SIQ provision, during the summer  
20 period, Enron North America had the option but not  
21 the obligation to deliver 80,000 MMBtu of gas per day  
22 to Peoples Gas; correct?

1           A     That's correct.

2           MR. KAMINSKI:   Permission to approach the  
3   witness?

4           JUDGE SAINSOT:   Permission granted.

5

6   BY MR. KAMINSKI:

7           Q     Providing what has been marked as Wear  
8   Cross Exhibit No. 2 before you, do you recognize this  
9   as Peoples Gas' response to Data Request OAG 3.001?

10          A     Yes.

11          Q     And you are the responsible witness for  
12   data response -- for the response to Data Request OAG  
13   3.001; correct?

14          A     That's correct.

15          Q     Did you prepare or at your direction have  
16   prepared a response to this data request?

17          A     Yes.

18          MR. KAMINSKI:   At this time, I ask for Wear  
19   Cross Exhibit No. 2 to be admitted into record.

20          JUDGE SAINSOT:   Any objection?

21          MS. KLYASHEFF:   No.

22          JUDGE SAINSOT:   That being the case,

1 Mr. Kaminski, Wear Cross Exhibit No. 2, which is a  
2 response to Data Request OAG 3.001 is admitted into  
3 evidence.

4 (Whereupon, AG Wear  
5 Cross Exhibit No. 2 was  
6 admitted into evidence as  
7 of this date.)

8 MR. KAMINSKI: Thank you.

9 BY MR. KAMINSKI:

10 Q Looking at Wear Cross Exhibit No. 2,  
11 Peoples Gas acknowledges that it believes that the  
12 right to nominate the amount of SIQ within a minimum  
13 and maximum range for any given day could provide  
14 value to Enron North America; correct?

15 A That's correct.

16 Q Peoples -- strike that.

17 Peoples did not attempt to quantify  
18 possible value to Enron North America the right to  
19 nominate the amount of SIQ within a minimum and  
20 maximum range for any given day; correct?

21 A That's correct.

22 Q Peoples Gas did not attempt to quantify the



1 possible cost to Peoples Gas of Enron North America's  
2 right to nominate the amount of SIQ within a minimum  
3 and maximum range for any given day; correct?

4 A That's correct.

5 Q We're done with that one.

6 Would you agree that the volume of gas  
7 consumed by Peoples Gas -- strike that.

8 Would you agree that the volume of gas  
9 consumed by Peoples Gas' customers under the ICC  
10 tariffs varies less in the summer period than in the  
11 winter period?

12 A Varies in absolute quantities from day to  
13 day? I'm not sure what you mean because, certainly,  
14 the amount of variance during the summer as a  
15 percentage from one day to the next can be  
16 considerable just as it can be in the winter.

17 Q You would agree that weather has a major  
18 impact on the send out of peoples gas in the  
19 non-summer -- in the non-summer months; correct?

20 A Yes, I agree with that statement.

21 Q And you'd also agree that the daily  
22 deliveries for transport customers can be varied

1       considerably; correct?

2               A       The amount of deliveries from transport  
3       customers can and does vary considerably throughout  
4       the year.  It also has periods where it is somewhat  
5       stable.

6               MR. KAMINSKI:  Permission to approach the  
7       witness?

8               JUDGE SAINSOT:  Granted.  Permission to  
9       approach.

10       BY MR. KAMINSKI:

11              Q       Providing what has been marked as Wear  
12       Cross Exhibit No. 3 before you, do you recognize this  
13       as Peoples Gas' response to Data Request POL 1.010?

14              A       Yes.

15              Q       And you are the responsible witness for the  
16       response to Data Request POL 1.010?

17              A       Yes.

18              Q       Did you prepare or have this prepared for  
19       you?

20              A       Yes.

21              MR. KAMINSKI:  At this time, your Honor, I'd  
22       like to move to admit Wear Cross Exhibit No. 3 into

1 the record.

2 JUDGE SAINSOT: Any objection?

3 MR. KLYASHEFF: No.

4 JUDGE SAINSOT: That being the case, your  
5 motion is granted, Mr. Kaminski, and Wear Cross  
6 Exhibit No. 3 -- AG Wear Cross Exhibit No. 3, which  
7 is response to Data Request POL 1.010 is admitted  
8 into evidence.

9 (Whereupon, AG Wear  
10 Wear Exhibit No. 3 was  
11 admitted into evidence as  
12 of this date.)

13 MR. KAMINSKI: Thank you. Can I approach  
14 again, please.

15 JUDGE SAINSOT: Yes.

16 BY MR. KAMINSKI:

17 Q Providing what has been marked as Wear  
18 Cross Exhibit No. 4 before you, do you recognize this  
19 as Peoples Gas' response to Data request POL 1.041?

20 A Yes.

21 Q And were you the responsible witness for  
22 this response?

1           A     Yes.

2           Q     And did you prepare or have prepared a  
3 response to this data request?

4           A     Yes.

5           MR. KAMINSKI: At this time, your Honor, I move  
6 to have Wear Cross Exhibit No. 4 entered into the  
7 record.

8           JUDGE SAINSOT: Any objection?

9           MS. KLYASHEFF: The response is marked  
10 confidential as well as the attachments included. I  
11 don't recall that it's a document that's been  
12 addressed in terms of request of confidentiality, I  
13 don't object to its admission, but it is a  
14 confidential document.

15          JUDGE SAINSOT: Mr. Kaminski?

16          MR. KAMINSKI: While it refers to confidential  
17 on the document itself, I do not have knowledge  
18 whether that's still the case. At this point, if we  
19 want to enter it into the record as confidential for  
20 now until we can ascertain that, that would be fine  
21 with me.

22          JUDGE SAINSOT: It's the attachment, isn't it,

1     that's confidential and not the data request response  
2     itself?

3             MR. KAMINSKI:   The data request, itself, if you  
4     look at the top of the right-hand corner it actually  
5     says confidential on it.

6             JUDGE SAINSOT:   Oh, right.   Right.

7                     Miss Klyasheff, if we enter it into  
8     evidence now on a confidential level, would Peoples  
9     have any objection to it?

10            MS. KLYASHEFF:   No.

11            JUDGE SAINSOT:   Okay.   Your motion is granted,  
12     Mr. Kaminski, AG Cross Exhibit No. 4, which is Wear  
13     response to the Data Request POL 1.041 and  
14     attachments are entered into evidence.

15                     And for now, we're treating it as  
16     confidential, although, Mr. Kaminski, you can bring  
17     it up later on and we'll make a decision later on.

18            MR. KAMINSKI:   Thank you.

19                     (Whereupon, AG Wear  
20                     Cross Exhibit No. 4 was  
21                     admitted into evidence as  
22                     of this date.)

1 BY MR. KAMINSKI:

2 Q Mr. Wear, are you familiar with the  
3 transaction that -- within the context of this  
4 proceeding that has been referred to as  
5 Transaction 19?

6 A Yes, I am.

7 Q Transaction 19 consisted of a sale of gas  
8 from Peoples Gas to Enron North America for -- of  
9 50,000 MMBtu's per day for each day in December of  
10 2000 for the first of month price; correct?

11 A I believe that's correct, yes.

12 Q The first of month price for December of  
13 2000 was \$6.15 per MMBtu; correct?

14 A I'm afraid that's something I'm not sure of  
15 at the moment.

16 Q Would you agree, subject to check, that  
17 that is the case?

18 A Well, I would agree that it's a number that  
19 can be readily determined, for the purposes of this,  
20 you need me to agree to that and change it later,  
21 that's fine.

22 Q Thank you. Using that number that you've

1     agreed to for now, the total value of Transaction 19  
2     was \$6.15 times the 50,000 MMBtu per day, times the  
3     31 days of December; correct?

4             A     If that follows, yes.

5             Q     Would you agree that the total value of  
6     Transaction 19, assuming those numbers are correct,  
7     was a little over \$9.5 million?

8             A     I can't do that calculation in my head, but  
9     I'll grant you that you've done it correctly.

10            MR. KAMINSKI: Thank you.

11                    May I approach, your Honor?

12            JUDGE SAINSOT: Yes, you may.

13     BY MR. KAMINSKI:

14             Q     Providing what has been marked as Wear  
15     Cross Exhibit No. 5 before you, do you recognize this  
16     as Peoples Gas' response to Data Request OAG 3.003?

17             A     Yes, I do.

18             Q     And you were the responsible witness for  
19     this data request; correct?

20             A     Yes.

21             Q     Did you prepare or have prepared for you  
22     this response?

1           A     Yes.

2           MR. KAMINSKI: Your Honor, at this time, I  
3 would like to move for the admission of Wear Cross  
4 Exhibit No. 5 into the record.

5           JUDGE SAINSOT: Any objection?

6           MS. KLYASHEFF: No.

7           JUDGE SAINSOT: Okay. That being the case,  
8 Mr. Kaminski, Wear Cross Exhibit No. 5 -- excuse me  
9 AG Wear Cross Exhibit No. 5 is admitted into  
10 evidence.

11                               (Whereupon, AG Wear  
12                               Cross Exhibit No. 5 was  
13                               admitted into evidence as  
14                               of this date.)

15           MR. KAMINSKI: Thank you.

16 BY MR. KAMINSKI:

17           Q     Wear Cross Exhibit No. 5 requested any  
18 contract or documentation memorializing  
19 Transaction 19; correct?

20           A     Yes.

21           Q     And Peoples Gas provided a single internal  
22 e-mail in response to Wear Cross Exhibit No. 5;



1 correct?

2 A That's correct.

3 Q Peoples Gas did not provide any written  
4 agreement memorializing Transaction 19; correct?

5 A That appears to be correct.

6 Q Is it the normal practice of Peoples Gas to  
7 enter into a transaction of the magnitude of  
8 Transaction 19, nearly \$10 million, without any  
9 written agreement with the other party?

10 A In the context of activity within the GPAA,  
11 I think that it was not uncommon for us to make  
12 changes of this magnitude from time to time. It  
13 probably is not typical of us to do this type of  
14 transaction without a written documentation of it.

15 Q So is it your testimony that entering into  
16 a transaction of the magnitude of Transaction 19,  
17 almost \$10 million, without a written agreement with  
18 the other party is a prudent business practice?

19 A I don't think I have an opinion about the  
20 prudence of that business practice. I would, again,  
21 say that it's not uncommon for us to make decisions  
22 of this magnitude under the context of the GPAA,

1     however, to not have a written contract of this type  
2     of a contract or this type of a transaction in  
3     general is atypical.

4             MR. KAMINSKI:   Thank you.

5                     May I approach, your Honor?

6             JUDGE SAINSOT:   Yes, you may.

7     BY MR. KAMINSKI:

8             Q     Providing what has been marked as Wear  
9     Cross Exhibit No. 6 before you, do you recognize this  
10    as Peoples Gas' response to Data Request POL 1.060?

11            A     Yes.

12            Q     And were you the responsible witness for  
13    the response to this data request?

14            A     Yes.

15            Q     Did you prepare or have prepared this  
16    response?

17            A     Yes.

18            MR. KAMINSKI:   At this time, your Honor, I move  
19    to enter Wear Cross Exhibit No. 6 into the record.

20            MR. MULROY:   Your Honor, we haven't had any  
21    objection up until this point to put in all the  
22    answers to these data requests.   I guess I'm just not

1     certain of the relevance.  Maybe you can give me some  
2     guidance here.  The witness has not been impeached on  
3     any of these things, has admitted to everything  
4     that's in them, I'm not quite sure why we're putting  
5     in the document also.  So, I mean, I -- normally, I  
6     would object on the grounds of relevance not to the  
7     question about the document, but if he's not denying  
8     it, I don't know why we're putting it in evidence.

9             JUDGE SAINSOT:  Mr. Kaminski?

10            MR. KAMINSKI:  Your Honor, the answers to some  
11     of the other data requests and indeed testimony,  
12     refer to the FERC Operating Statement and I think it  
13     is useful to have that in the record to refer to as  
14     understanding the context of the statements that we  
15     have.  And if you give me a little bit more time, I  
16     could show you where the FERC Operating Statement is  
17     germane to our issue.

18            MR. MULROY:  As I said, I'm sure the question  
19     is relevant, but to put the FERC Operating Statement  
20     in this record, which is already big, I don't see the  
21     relevance of it, especially a public document.

22            MR. KAMINSKI:  A portion of the FERC Operating

1 Statement has been referred to. However, the whole  
2 operating statement is how the FERC transactions in  
3 the storage field are done. So to simply have one  
4 piece of it does not show the full picture of what  
5 are the obligations and rights under the FERC  
6 Operating Statement that they were discussing.

7 JUDGE SAINSOT: I don't disagree with you,  
8 Mr. Kaminski, I'm just not sure this is the witness  
9 to get this piece of evidence in the record. Do you  
10 intend to ask him questions about it?

11 MR. KAMINSKI: Yes.

12 JUDGE SAINSOT: All right. I'll give you a  
13 little leeway here.

14 MR. KAMINSKI: Thank you.

15 JUDGE SAINSOT: Anything else, Mr. Mulroy?

16 MR. MULROY: No.

17 JUDGE SAINSOT: Any other objection?

18 MR. MULROY: (Shaking head side to side.)

19 JUDGE SAINSOT: That being the case,  
20 Mr. Kaminski, your motion is granted and AG Wear  
21 Cross Exhibit No. 6, which is response to Data  
22 Request POL 1.060 and the Peoples FERC Operating

1 Statement attached is entered into evidence.

2 (Whereupon, AG Wear  
3 Cross Exhibit No. 6 was  
4 admitted into evidence as  
5 of this date.)

6 MR. KAMINSKI: Thank you, your Honor. I only  
7 have one other exhibit, that will eliminate our  
8 discussion earlier.

9 May I approach?

10 JUDGE SAINSOT: Yes, you may.

11 BY MR. KAMINSKI:

12 Q Providing what has been marked as Wear  
13 Cross Exhibit No. 7 before you, do you recognize this  
14 as Peoples Gas' response to Data Request POL 2.035?

15 A Yes.

16 Q And are you the responsible witness for  
17 this data request?

18 A Yes.

19 Q And did you prepare or have prepared the  
20 response to this data request?

21 A Yes.

22 MR. KAMINSKI: At this time, your Honor, I move

1 to admit Wear Cross Exhibit No. 7 into the record.

2 JUDGE SAINSOT: Any objection?

3 MR. MULROY: Your Honor, I object on the  
4 grounds of relevance again. He's not impeaching the  
5 witness, he's not completing impeachment of the  
6 witness, he's just putting in answers to what are  
7 interrogatories. He should feel free to ask any  
8 questions about this; but to put the document in is  
9 just a procedure I'm not familiar with before there's  
10 been any attempt of impeachment or refreshing  
11 recollection or anything. I mean, we've got seven of  
12 these in here now.

13 JUDGE SAINSOT: Yeah, I don't understand.

14 MR. KAMINSKI: Your Honor, the Commission  
15 favors a full and accurate record and this is  
16 providing that and I do have some questions regarding  
17 it.

18 JUDGE SAINSOT: You do have questions?

19 MR. KAMINSKI: I do have questions regarding  
20 this exhibit.

21 MR. MULROY: I have no objection to him asking  
22 the questions.

1 JUDGE SAINSOT: I understand. In the future,  
2 Mr. Kaminski, it might be helpful if you ask the  
3 question first and then we can determine whether to  
4 admit the document into evidence. Are you going to  
5 ask him questions immediately about this particular  
6 document?

7 MR. KAMINSKI: The very next one.

8 JUDGE SAINSOT: Okay. Why don't we reserve  
9 ruling on this until you've asked the questions  
10 first.

11 MR. KAMINSKI: Okay.

12 BY MR. KAMINSKI:

13 Q Mr. Wear, referring to Exhibit 7 your  
14 response stated that The respondent's customers'  
15 requirements took priority over agreements pursuant  
16 to its FERC Operating Statement or another interstate  
17 transaction; correct?

18 A That's correct.

19 Q Now, in this response, when you refer to  
20 Respondent, you're referring to Peoples Gas; correct?

21 A That's correct.

22 Q How were the Peoples Gas customers'

1 requirements determined?

2 A How were the Peoples Gas customers'  
3 requirements determined?

4 Q Correct.

5 A What particular requirements are you  
6 referring to?

7 Q I'm referring directly to the statement in  
8 Exhibit 7 that states that respondent's customers'  
9 requirements took priority over agreements pursuant  
10 to its FERC Operating Statement or another interstate  
11 transaction. Within the context of that statement,  
12 how are Peoples Gas customers' requirements  
13 determined.

14 A Peoples Gas' requirements are determined  
15 through various tools that the Company has at its  
16 disposal, which will predict under -- given weather  
17 conditions, how much demand would be required by the  
18 Company to serve and what assets would be available  
19 to serve that load.

20 Q Referring now to Wear Cross Exhibit 6, the  
21 FERC Operating Statement, actually, the cover to  
22 that. Looking at the second to last sentence of the



1 response, that states, Park and Loan service is  
2 interruptible and Respondent will only provide such  
3 service when capacity is available in Respondent's  
4 Manlove Field Storage Complex; correct?

5 A That's correct.

6 Q That response in Exhibit No. 6 also refers  
7 to the FERC Operating Statement, quote, Peoples Gas  
8 reserves the right not to offer or commence service  
9 or to discontinue any interruptible service when  
10 People Gas' sole -- strike that.

11 Further on, actually, in your response  
12 Exhibit 7 you refer to the FERC Operating Statement  
13 stating, Peoples Gas reserves the right not to offer  
14 or commence service or to discontinue any  
15 interruptible service when, in Peoples Gas' sole  
16 discretion, any impairment of its firm services,  
17 including its ability to use storage to support firm  
18 services and gas purchases for firm services would  
19 and may result; correct?

20 MR. MULROY: We stipulate you read that right.

21 BY MR. KAMINSKI:

22 Q Mr. Wear, please define what "firm

1 services" means within the context of that response.

2 A I believe that firm services in the context  
3 of that response means the ability to draw on  
4 resources at the Company's disposal to meet its rate  
5 payers requirements.

6 Q So firm services includes  
7 servicing rate payers Peoples Gas customers?

8 A Yes, that's correct.

9 Q Does firm services include withdrawing  
10 stored gas to serve Peoples Gas customers?

11 A Yes, it does. And at no time were firm  
12 services to Peoples Gas customers in any way  
13 compromised by offering hub services.

14 Q Does firm services include withdrawals of  
15 stored gas to mitigate the cost of winter gas to  
16 Peoples Gas customers?

17 A Price mitigation is not the primary use of  
18 storage, so I don't know that -- I think that  
19 withdrawal of storage gas to meet customers' needs is  
20 what I was referring to when I said firm services.  
21 The reason for those withdrawals are variant.

22 Q So is it your testimony that the firm

1 services does not include withdrawals of stored gas  
2 to mitigate the cost of winter gas for Peoples '  
3 customers?

4 A Forgive me for being repetitious here, but  
5 firm services, in my mind, includes withdrawals from  
6 storage. Withdrawals from storage themselves are  
7 done for a variety of reasons.

8 JUDGE SAINSOT: Mr. Kaminski, can I interrupt  
9 you for a second?

10 MR. KAMINSKI: Sure.

11 JUDGE SAINSOT: Who else has questions for  
12 Mr. Wear?

13 MR. BRADY: (Indicating.)

14 MR. JOLLY: (Indicating.)

15 JUDGE SAINSOT: How much further do you have,  
16 Mr. Kaminski?

17 MR. KAMINSKI: I've got about six questions,  
18 assuming the way he answers them.

19 BY MR. KAMINSKI:

20 Q Would a withdrawal of stored gas to  
21 mitigate the cost of winter gas for Peoples Gas  
22 customers necessarily be a firm service within the

1 context of your response to the data request?

2 A Yes.

3 Q Please refer to Exhibit -- Wear Cross  
4 Exhibit No. 6, specifically, Page 4 down at the  
5 bottom, it's Paragraph 1.35, it states, Transporter  
6 shall mean the Peoples Gas Light and Coke Company;  
7 correct?

8 A Yes.

9 Q I now refer to Page 13 of Exhibit 6,  
10 please. Looking at the last paragraph that starts on  
11 Page 13 and wraps to Page 14. The last sentence of  
12 that paragraph reads, Transporter shall schedule  
13 interruptible or authorized overrun service only if,  
14 based on Transporter's reasonable operating judgment  
15 and discretion, such service would not be expected to  
16 prevent Transporter from meeting its firm obligations  
17 under this operating statement and under its rates  
18 and tariffs on file with the Illinois Commission;  
19 correct.

20 JUDGE SAINSOT: Mr. Kaminski, what numbered  
21 paragraph are you looking at?

22 MR. KAMINSKI: I believe it would be 9.6. It's

1 the last paragraph on Page 13.

2 JUDGE SAINSOT: I don't think your document is  
3 numbered the exact same.

4 MR. MULROY: Are you on the FERC tariff, Judge?

5 JUDGE SAINSOT: Yes.

6 MR. MULROY: We have it, that's why I thought  
7 you might.

8 JUDGE SAINSOT: I know it's on Page 14.

9 MR. MULROY: Right. It begins on 13; right?

10 MR. KAMINSKI: The paragraph itself starts on  
11 Page 13. The statement that I'm reading is on  
12 Page 14.

13 JUDGE SAINSOT: Okay.

14 MR. MULROY: I don't think there's a question  
15 pending.

16 BY MR. KAMINSKI:

17 Q The question was, Was the statement that I  
18 read, what it stated there?

19 A Yes.

20 Q Thank you.

21 A You're welcome.

22 Q Referring specifically to the part that

1     says, Firm obligations under this operating statement  
2     and under its rates and tariffs on file with the  
3     Illinois Commerce Commission -- I'm sorry, Illinois  
4     Commission, does that statement include servicing  
5     Peoples' customers?

6             A     Yes.

7             Q     Does that statement include stored gas  
8     withdrawals to serve Peoples' customers?

9             A     Yes.

10            Q     Does that statement include withdrawals of  
11    stored gas to mitigate the cost of winter gas for  
12    Peoples Gas customers?

13            A     Again, I referred to the way I answered  
14    that question before, that the withdrawals of gas as  
15    a firm service to meet customers' requirements is  
16    done for a variety of reasons.

17            Q     Would a withdrawal of stored gas to  
18    mitigate the cost of winter gas for Peoples Gas'  
19    customers fall under this statement, firm  
20    obligations, under the operating statement and under  
21    its rates and tariffs on file with the Illinois  
22    Commission?

1           A     Yes.

2           Q     Referring back to Wear Cross Exhibit No. 7  
3     in that last sentence, you refer to impairment of its  
4     firm services; correct? It should be the third to  
5     last line.

6           A     Yes.

7           Q     Would a transaction that decreased Peoples  
8     Gas' ability to use stored gas to mitigate the cost  
9     of winter gas to Peoples Gas customers be an  
10    impairment of its firm services?

11          A     Yes.

12          Q     Once Peoples Gas enters into an agreement  
13    pursuant to the FERC Operating Statement, can Peoples  
14    Gas discontinue that transaction if it finds that the  
15    transaction would or may result in impairment of its  
16    firm services?

17          A     That's the way I interpret this portion of  
18    the operating statement, yes.

19          Q     So you read -- the beginning of that  
20    statement says, Peoples Gas reserves the right not to  
21    offer or commence service, you read that to also  
22    include to interrupt service?

1           A     Well, the complete statement said, To  
2     discontinue any interruptible service, that's what I  
3     was referring to when you asked if it was...

4           MR. KAMINSKI:   Thank you.

5                     Your Honor, at this point in time, I  
6     move to admit Wear Cross Exhibit No. 7 into the  
7     record.

8           JUDGE SAINSOT:   You're not going to object?

9           MR. MULROY:    No.

10          JUDGE SAINSOT:   I can't tell what that means,  
11     Mr. Mulroy.

12          MR. MULROY:    That means there's a bug around  
13     me, I'm trying to get rid of it.  I don't object but  
14     I just think -- and the reason I don't is because I  
15     don't think my other friends, the lawyers, are going  
16     to put in all these data requests; but if they are, I  
17     guess I will continue to object to this kind of  
18     procedure; but I'm counting on the fact that they  
19     won't.  So, I guess I don't at this point have any  
20     objection to putting these seven data requests in and  
21     reading from them.

22          JUDGE SAINSOT:   Okay.  Well, you know, I have



1 to say, Mr. Kaminski, I was reading Wear Cross  
2 Exhibit No. 7 and it's really a reiteration of what's  
3 in -- or what's in parts of Cross Exhibit No. 6.

4 MR. KAMINSKI: If you look at the language that  
5 I refer to in both, they're not the same and that was  
6 part of the question and why I asked some of the same  
7 questions the same way is to determine if there was  
8 any difference between the two and I think that they  
9 both are useful for the record.

10 JUDGE SAINSOT: Okay. You won.

11 MR. KAMINSKI: That is all I have. Thank you.

12 JUDGE SAINSOT: For the record, your motion is  
13 granted, Mr. Kaminski, and AG Wear Cross Exhibit  
14 No. 7, which is a response to Data Request POL 2.035  
15 is admitted into evidence.

16 (Whereupon, AG Wear  
17 Cross Exhibit No. 7 was  
18 admitted into evidence as  
19 of this date.)

20 JUDGE SAINSOT: We're going to take a 10-minute  
21 break, though, before we have...

22 (Recess taken.)

1 JUDGE SAINCOT: Mr. Brady?

2 MR. BRADY: Thank you, your Honor.

3 CROSS-EXAMINATION

4 BY

5 MR. BRADY:

6 Q Good afternoon, Mr. Wear, my name is Sean  
7 Brady, I represent Staff of the Illinois Commerce  
8 Commission.

9 A Good afternoon, Mr. Brady.

10 Q Now, I believe you said that the GPAA was  
11 an effective way to hedge a falling basis, do you  
12 recall that?

13 A Yes, I do.

14 Q Prior to signing the GPAA, so prior to  
15 1999, over what period of time had Peoples Gas been  
16 hedging against a falling basis?

17 A We had always had a portion of our  
18 portfolio that was concluding -- that included  
19 purchases at the citygate that were priced at a  
20 citygate price, so we always had a mix of pricing  
21 options in our portfolio. Prior to the GPAA, there  
22 was never a formal mechanism for doing that such as

1 the GPAA presented.

2 Q Then do you regard hedging as a falling  
3 basis as a change in strategy by the Company back in  
4 1999?

5 A I would describe it as an effort to address  
6 what we thought was a growing probability, that basis  
7 between certain field purchase points and the Chicago  
8 citygate would decline. We would have, in the past,  
9 reacted to other market indicators, whatever they  
10 might have been.

11 Q Do you still have Exhibit No. 3, which I  
12 believe is attached to your Exhibit No. 2, it's the  
13 one that Mr. Kaminski was using, the basis  
14 differentials, this mid-continent and so forth, the  
15 basis differential from mid-continent to Chicago.

16 A Okay. I have it.

17 Q When -- did you actually create these  
18 charts or did you have someone do this for you?

19 A I did them myself.

20 Q And you said -- the data request, I  
21 believe -- I forget which one -- was it done using  
22 Excel?

1           A     That's correct.

2           Q     When did you create this?

3           A     These were exhibits to my additional direct  
4     testimony, I believe, which I don't recall when it  
5     was originally filed; but it would have been in the  
6     process of preparing that original testimony.

7           Q     So, then, you didn't actually look at or --  
8     I'm sorry, you didn't create these tables in doing  
9     the review for the GPAA?

10          A     No, I did not and I think that was stated  
11     in the testimony that this was an illustrative  
12     example of the kinds of information that we were  
13     looking at at the time we negotiated the GPAA; but  
14     this was not done at that time.

15          Q     Thank you. Do you have a copy of your  
16     rebuttal testimony, Exhibit F?

17          A     Yes.

18          Q     If you could turn to Page 3, Lines 36 to  
19     Line 39, if you take a look at those, the sentences  
20     on those lines. And this section addresses a  
21     quantitative analysis of the GPAA; is that correct?

22          A     Yes.

1           Q     And do you see the sentence there starting  
2     on Page -- on Line 38, it says, Such analysis  
3     requires the considerable use of assumptions?

4           A     Yes, I see that.

5           Q     In evaluating a request for a proposal,  
6     would Peoples Gas not have to consider -- do  
7     considerable analysis in choosing the best offer and  
8     begin negotiating?

9           A     That part of the testimony does not address  
10    a request for a proposal but --

11          Q     Let me ask you -- let me back up, then.  
12    Are you involved in evaluating requests for  
13    proposals?

14          A     Yes.

15          Q     So, then, you have experience in evaluating  
16    them and what goes into evaluating requests for  
17    proposals; is that correct?

18          A     Yes.

19          Q     So, is there considerable analysis involved  
20    in evaluating requests for proposals?

21          A     Well, considerable is rather subjective.  
22    The types of analysis that I think is typically

1 required of requests for simple contracts is not near  
2 what I believe would have been required to analyze  
3 the GPAA; and that was what I was referring to in the  
4 testimony when I said that a considerable number of  
5 assumptions would have been required to analyze the  
6 GPAA. I think that the question about whether or not  
7 the GPAA was a contract that was conducive to putting  
8 out to competitive bid is separate and I think there  
9 are reasons that I've illustrated in the testimony  
10 about why that wasn't the case as well.

11 Q Well, what about if you had a request for a  
12 proposal where you were looking at evaluating  
13 locational indexes? Are you familiar with that term,  
14 let me ask you first. Are you familiar with the term  
15 "locational indexes"?

16 A Perhaps you could describe for me what you  
17 mean, so I'll be sure I know.

18 Q It would be an index price for locations on  
19 a pipeline where gas is transacted?

20 A Yes, I'm familiar with the term.

21 Q Okay. And have you been involved in  
22 reviewing requests for proposals that involved a

1 company providing information about locational  
2 indexes?

3 A Yes, we typically receive offers for supply  
4 at a particular location and ask that they be priced  
5 off of an appropriate index.

6 Q So would you agree with me that there is  
7 considerable analysis being performed when comparing  
8 locational indexes?

9 A Well, actually, I think that that process  
10 is quite uncomplicated, it's simply a matter of  
11 sorting the offers according to price, so in that  
12 case, the analysis is quite simple. I don't think  
13 that was the case in analyzing the GPAA.

14 Q Thank you. Can you turn to Page 6 of  
15 Exhibit F, Lines 117 through 119. Before I ask you a  
16 question about that language, let me ask you -- you  
17 provided analy- -- you provided the analysis basis  
18 projections in Exhibit 2 of your Exhibit C; correct?  
19 Exhibits of exhibits, is that how you're -- Exhibit  
20 No. 2 of Exhibit C?

21 A That's correct. We -- that was part of my  
22 additional direct testimony, yes.

1           Q     Okay. Now, going back to Lines 117 through  
2     119. You say there, That there was a range of  
3     plausible outcomes, many of which -- many of which  
4     were much more favorable to the GPAA's expected value  
5     and the calculations of Dr. Rearden. Now, were there  
6     another set of basis projections that covered the  
7     period of the GPAA in your additional direct  
8     testimony other than those that you provided in  
9     Exhibit 2 of Exhibit C?

10          A     I'm sure there are many more. The ones  
11     that I provided in my additional direct testimony  
12     were the ones that I had at hand at the time I  
13     prepared that testimony. I think Mr. Graves, in his  
14     rebuttal testimony, cited others as well and,  
15     certainly, there may have been more from the parties  
16     with whom I'm not familiar.

17          Q     But you didn't rely upon any other basis  
18     projections other than those that were in Exhibit 2  
19     of Exhibit C?

20          A     Exhibit 2 of my additional direct testimony  
21     was the foundation of the charts that I produced in  
22     Exhibit 3. So, yes, those were the ones that I used



1 to form my analysis.

2 Q This Exhibit 3, right, the one with all the  
3 basis differentials --

4 A Yes.

5 Q -- for mid-continent to Chicago?

6 A Yes.

7 Q You say that -- on Line 117 it says, There  
8 was a range of plausible outcomes. Can you point --  
9 can you point me in your additional direct testimony  
10 to where you discuss the range of potential outcomes  
11 that justify the GPAA?

12 A In my rebuttal testimony, I was referring  
13 only in part to my additional direct testimony. I  
14 think the range of outcomes that I was referring to  
15 was that scenario and other scenarios, ones that were  
16 not presented in the additional direct but ones that  
17 were provided -- that Mr. Graves provided in his  
18 testimony and, yet, these others that I assert were  
19 probably out there that were just unknown to me at  
20 the time.

21 Q And, hence, not part of this record or  
22 presented in this case; correct?

1           A     Correct.

2           Q     Did you run the numbers in Exhibit 2 to see  
3 whether they justified the GPAA?

4           A     That wasn't the purpose of my analysis of  
5 those numbers. It was to present -- as I said, it  
6 was to present one example of the data is that we  
7 were looking at -- that the Company was looking at  
8 when deciding to enter into the GPAA. It was not an  
9 analysis that was done to -- for the purpose of  
10 evaluating the GPAA at the time the GPAA was being  
11 negotiated.

12          Q     On the same exhibit, Page 7, Lines 130 to  
13 133 --

14          JUDGE SAINSOT: Are you talking about  
15 Respondent's Exhibit F?

16          MR. BRADY: Yes.

17          THE WITNESS: And the line numbers again,  
18 please, Mr. Brady?

19 BY MR. BRADY:

20          Q     130 to 133.

21          A     Yes.

22          Q     It starts with -- the sentence starts with,

1 The Company recognizes this fact. Are you there?

2 A Yes.

3 Q The sentence says, The Company recognizes  
4 this fact, Dr. Rearden does not and for him to assume  
5 that daily and monthly basis differentials are the  
6 same, at least to a different result than if one were  
7 to use daily differentials that are different; is  
8 that correct?

9 A That's correct.

10 Q Can you point to a location in  
11 Dr. Rearden's testimony in which he assumes that  
12 daily and monthly basis differentials are the same?

13 A It's my recollection that Dr. Rearden's  
14 testimony was based on monthly differentials when he  
15 evaluated the GPAA. He was using the information  
16 that I think I provided in the -- in my additional  
17 direct, which was all -- simply monthly data, there  
18 was no daily data provided. So I assert that  
19 throughout his analysis of the GPAA, he didn't  
20 consider daily differentials.

21 Q So, then, he did not assume that daily and  
22 monthly basis differentials are the same?

1           A     Well, I think that by default he did  
2     because all the daily purchases that would have been  
3     assumed to have fallen under the GPAA would have been  
4     done at the monthly basis differentials rather than  
5     at a daily...

6           MR. BRADY:   May I have just a second, your  
7     Honor?

8           JUDGE SAINSOT:   Sure.

9     BY MR. BRADY:

10          Q     Mr. Wear, can you turn to Page 12 of your  
11     Exhibit F, Lines 257 to 259.   There you reference  
12     other companies intellectual property --

13          A     Yes.

14          Q     -- proprietary intellectual property that  
15     results in such collaboration of the open market?

16          A     Yes.

17          Q     So in this statement, you're referring to  
18     the discussions or collaborations that you had with  
19     other suppliers that you were looking at to -- when  
20     you were contemplating something other than the GPAA?

21          A     I was referring to the kinds of  
22     conversations that we often have with suppliers where

1     they'll propose a particular structure to us,  
2     something that they have come up with on their own  
3     and we would have discussions with them about whether  
4     or not that product has a place in our portfolio or  
5     not and we might refine that product a little bit  
6     further until we get to one that does have a place in  
7     our portfolio.

8                     It didn't refer to any particular  
9     instance in the past, but these are things that  
10    happen quite often and I think that -- to take that  
11    result of that work and then say, Okay, I like your  
12    idea, I like what you've come up with and now I'm  
13    going to show it to every one else and let them put a  
14    value to it as well. I think that that is a poor way  
15    to conduct business.

16            Q     I got that from your testimony. My  
17    question for you is, was this material that was  
18    actually provided to you copyrighted?

19            A     Again, I'm not referring to any particular  
20    material, it was more conceptual in the types of  
21    activities that we do undertake. In the context of  
22    this testimony, again, for us to work on the GPAA

1     which was --

2             Q     Mr. Wear, my question was a simple yes or  
3     no question. Was the material copyrighted?

4             A     Well, no, I don't believe that the work  
5     that we would have done, typically, with people could  
6     have been covered by copyrighting laws.

7             Q     Do you believe it would have been patented?

8             A     I'm not at liberty to make an opinion on  
9     something like that. Again, I was using intellectual  
10    proprietary -- intellectual property as an idea that  
11    someone came up with that no one else presumably had  
12    yet seen, whether it was copyrighted or trademarked  
13    or whatever, I wouldn't know; but generally, these  
14    were informal ideas.

15            Q     So to protect the propriety of the  
16    information?

17            A     Yes, for lack of a better word.

18            MR. MULROY: Proprietary.

19    BY MR. BRADY:

20            Q     I hate to do this but I'd like to go back a  
21    document, back to your additional direct testimony,  
22    which is Exhibit C. There on Page 38, you had

1     mentioned -- a question put to you was, Did  
2     Respondent enter into any off-system transactions  
3     during the reconciliation period that was intended to  
4     benefit an affiliate? And you answered, no; is that  
5     correct?

6           A     That's correct.

7           Q     Were you aware that Enron Midwest shared  
8     its profits with PEC?

9           JUDGE SAINSOT: Mr. Brady, what page are you  
10    on?

11          MR. BRADY: 38 of Exhibit C, Lines 834 to 836.

12          THE WITNESS: I was aware of the relationship  
13    between Enron Midwest and Peoples. I wasn't sure of  
14    any of the particulars of the profit sharing  
15    arrangement that they had.

16    BY MR. BRADY:

17          Q     So when you said "Peoples" in your  
18    response, you're referring to Peoples Energy  
19    Corporation or Peoples Gas?

20          A     Well, I don't remember how you phrased the  
21    question but my intent was -- I was aware of the  
22    relationship between Peoples Energy

1 Resources-Corporation and Enron Midwest, but I was  
2 not aware of the profit sharing arrangement between  
3 them.

4 MR. MULROY: Could we go off the record for  
5 just a second?

6 JUDGE SAINSOT: (Nodding head up and down.)

7 (Discussion off the record.)

8 BY MR. BRADY:

9 Q When did you become aware of that sharing?

10 A I still don't know that I fully understand  
11 the profit sharing arrangement that was between those  
12 parties.

13 Q Are you aware of whether -- are you aware  
14 if Enron Midwest generated profits as a result of its  
15 transactions with Peoples Gas?

16 A Well, I think that Enron Midwest, much the  
17 same as any other wholesale marketer would be profit  
18 driven, I can't say for certain that every  
19 transaction that they undertook was a profit making  
20 one, so, I don't know what their motive was for  
21 entering into the transactions always.

22 Q I guess -- I'm not asking for motive, I'm



1 not asking for all transactions, I'm just wondering  
2 if you knew whether they -- whether Enron Midwest had  
3 generated any profits as a result of any transactions  
4 with Peoples Gas?

5 A No, I wouldn't know.

6 Q Mr. Wear, you've been with the Company  
7 since 1989; correct?

8 A Yes.

9 Q And you are in -- your position is manager  
10 of gas supply administration at this point?

11 A Yes. The department's name has changed but  
12 the job function is essentially the same.

13 Q So are you in any position at all to -- or  
14 authority to look at the name of this storage field  
15 for reconsideration, Manlove?

16 MR. BRADY: Never mind. I withdraw the  
17 question.

18 We have no further questions, your  
19 Honor.

20 JUDGE SAINSOT: Okay. I think we ought to take  
21 a rest for the evening. So we'll meet back here at  
22 10:00 on Wednesday and then we'll bring Mr. Wear back

1 fully refreshed.

2 (Whereupon, a recess

3 was taken to resume

4 at 10:00 a.m. on April 20, 2005)

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